

APPENDIX 8  
**<sup>1</sup>THE BOMBAY POLICE ACT, 1951**  
[Bombay Act No. XXII of 1951]<sup>2</sup>

[11th June, 1951]

*An Act to consolidate and amend the law for the regulation of the Police Force  
in the State of Bombay*

Whereas it is expedient to amalgamate the District and Greater Bombay Police Forces<sup>3</sup> [and the Police Forces of the Saurashtra, Kutch and Hyderabad areas, and of the Vidarbha regions], of the State of Bombay into one common Police Force and to introduce uniform methods regarding the working and control of the said Force throughout the State; And whereas it is necessary to consolidate and amend the law relating to the regulation of the said Force and the exercise of powers and performance of functions by the State Government and by the members of the said Force for the maintenance of public order. And whereas it is necessary to provide for certain other purposes hereinafter appearing. It is hereby enacted as follows:

CHAPTER I

**Preliminary**

1. ***Short title, extent and commencement.*** (1) This Act may be called the Bombay Police Act, 1951.

<sup>4</sup>[(2) It extends to the whole of the State of <sup>5</sup>[Maharashtra].]

<sup>6</sup>[(3) It shall come into force <sup>7</sup>[in the pre-Re-organisation State of Bombay] on such date as the State Government may, by notification in the *official Gazette*, <sup>8</sup>[specify in this behalf. and in that part of the State to which it is extended by the Bombay Police (Extension and Amendment) Act, 1959 (Bombay XXXIV of 1959), it shall come into force on such other date as that Government may, by like notification. specify].]

**Gujarat Amendment**

In sub- section (2) of Sec. 1 for "Bombay" substituted "Gujarat".<sup>9</sup>

<sup>1</sup> For Statement of Objects and Reasons. see Bombay Government Gazette, 1950, Part V, page 324 ; for Report of the Select Committee, see *ibid*, 1951, Part V, pages 34-88.

<sup>2</sup> This Act was extended to that part of the State of Bombay to which immediately before the commencement of Bom 34 of 1959, it did not extend (Vide Bom 34 of 1959, Sec 2).

<sup>3</sup> These words were substituted for the words "in the State of Bombay" by Bom 34 of 1959, Sec 3.

<sup>4</sup> This sub-section was substituted for the original, *ibid*, Sec 4 (1).

<sup>5</sup> This word was substituted for the word "Bombay" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>6</sup> Sub-section (3.) shall remain unmodified, *vide ibid*.

<sup>7</sup> These words were inserted, *ibid*, Sec 4 (2).

<sup>8</sup> These words were substituted for the words "specify in this behalf", *ibid*, Sec 4 (2).

<sup>9</sup> Vide Gujarat Adaptation of laws (State and Concurrent Subjects) Order, 1960.

2. **Definitions.** In this Act, unless there is anything repugnant in the subject or context-

- (1) "cattle" includes elephants, camels, horses, asses, mules, sheep, goats and swine;
- (2) "Corporation" means a Corporation constituted under <sup>1</sup>[\* \* \*] (Bom. III of 1888) the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 19-9), <sup>2</sup>[\* \* \*];
- (3) the expression "competent authority" when used with the reference to the exercise of performance of any power, duty or function, under the provisions of this Act (C. P. & Berar II of 1950), means-
  - (a) in relation to <sup>3</sup>[to any area] for which a Commissioner of Police is appointed under Sec. 7, the Commissioner;
  - (b) in relation to the areas other than those referred to in Cl. (a) the District Magistrate or the District Superintendent or the Additional Superintendent when especially empowered in that behalf by the State Government] ;
  - <sup>4</sup>[(c) in relation to a revenue division, the Revenue Commissioner;]
- (4) "constable" means a police officer of the lowest grade;
- (5) "district" means a territorial division constituting a district for the purposes of the Code of Criminal Procedure, 1898 (V of 1898), but does not include <sup>5</sup>[any area for which a Commissioner of Police has been appointed under Sec. 7];
- <sup>6</sup>[5-A "eating-house" means any place to which the public are admitted, and where any kind of food or drink is supplied for consumption on the premises by any person owning or having an interest in or managing such place, and includes a refreshment-room, boarding-house, coffee-house or a shop where any kind of food or drink is supplied to the public for consumption in or near such shop but does not include "a place of public entertainment."]
- (6) "Inspector-General, <sup>7</sup>[Special Inspector-General], "Additional Inspector-General", "Commissioner", "Deputy Inspector-General", "Deputy Commissioner", "Assistant Commissioner", "District Superintendent", "Additional Superintendent", "Assistant Superintendent" and "Deputy Superintendent" means respectively the Inspector-General of Police <sup>8</sup>a Special Inspector-General of Police], <sup>9</sup>[an Additional Inspector-General of Police], a Commissioner of Police including an Additional Commissioner of Police, a Deputy Inspector-General of Police, <sup>10</sup>[(including the Director of Police Wireless and Deputy Inspector-General of Police appointed under Sec. 8-A)] a Deputy Commissioner of Police an Assistant Commissioner of Police, a District Superintendent of Police <sup>11</sup>[(including a Superintendent of Police appointed under Sec. 8-A or 22-A)], an Additional Superintendent of Police, an Assistant Superintendent of Police and a Deputy Superintendent of Police appointed or deemed to be appointed under this Act;

<sup>1</sup> The words "the Bombay Municipal Corporation Act, or" were deleted by the Maharashtra Adaptation of Laws State and Concurrent Subjects), Order, 1960.

<sup>2</sup> The words "or the City of Nagpur Corporation Act, 1948" were deleted, *ibid*.

<sup>3</sup> These words were substituted for the words "Greater Bombay, and other areas", *ibid* .

<sup>4</sup> Ins by Maharashtra Act II of 1960.

<sup>5</sup> This portion was substituted for the words "Greater Bombay" by Bom 56 of 1959, Sec 3, Schedule.

<sup>6</sup> Ins by Maharashtra Act No II of 1969.

<sup>7</sup> Ins by Maharashtra Act XXIV of 1971.

<sup>8</sup> Ins by Maharashtra Act XXIV of 1971.

<sup>9</sup> Subs by Maharashtra Act 38 of 1961.

<sup>10</sup> Ins by Mah Act XXIV of 1971

<sup>11</sup> These words were substituted for the words "Greater Bombay, and other areas" by Mah Act 38 of 1961.

- <sup>1</sup>[(7) "municipality" means a municipality or municipal borough established under any law for the time being in force in any part of the State, but does not include a Municipal corporation] ;
- <sup>2</sup>[(7-A) "Municipal Corporation", in relation to the Municipal Corporation of the City of Nagpur, means the Chief Executive Officer by whatever name called ;)
- (8) "place" includes a building, a tent, a booth or other erection, whether permanent or temporary, or any area whether enclosed or open;
- (9) "place of public amusement" means any place where music, singing dancing, or any diversion or game, or the means of carrying on the same, is provided and to which the public are admitted either on payment of money or with the intention that money may be collected from those admitted and includes a race course, circus, theatre, music hall, billiard room, bagatelle room, gymnasium, fencing school, swimming pool or dancing hall;
- <sup>3</sup>[(10) "place of public entertainment" means a lodging-house, boarding and lodging-house or residential hotel, and includes any eating-house in which any kind of liquor or intoxicating drug is supplied (such as a tavern, a wine shop, a beer shop or spirit, arrack, toddy, ganja, bhang or opium shop) to the public for consumption in or near such place ;]
- (11) "Police officer" means any member of the Police Force appointed or deemed to be appointed under this Act, and includes a special or an additional Police officer appointed under Sec. 21 or 22;
- (12) "prescribed" means prescribed by rules;
- (13) "public place" include the foreshore, the precincts of every public building or monument, and all places accessible to the public for drawing water, washing or bathing or for the purpose of recreation;
- <sup>4</sup>[(13-A) "Revenue Commissioner" means the Commissioner of a division appointed under Sec. 6-A of the Bombay Land Revenue Code, 1879 (Bom. V of 1879):
- (14) "rules" means made under this Act;
- (15) "street" includes any highway, bridge, way over a causeway, viaduct arch, quay or wharf or any road, lane, footway, square, court, alley or passage accessible to the public, whether a thoroughfare or not;
- (16) "Subordinate ranks" means members of the Police Force below the rank of the Inspector;
- (17) "vehicle" means any carriage, cart, van, dray, truck, hand-cart or other conveyance of any description and includes a bicycle, a tricycle, a rickshaw, an automatic car, a vessel or an aeroplane.

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<sup>1</sup> This clause was substituted for the original, *ibid*, Sec 5 (4).

<sup>2</sup> Clause (7A) was Ins by Bombay Act 34 of 1959.

<sup>3</sup> Subs by Maharashtra Act II of 1969.

<sup>4</sup> This clause was inserted by Bom 8 of 1958, Sec 3, Schedule.

## Gujarat Amendment

In Sec. 2 of Cl. (2), omit “the Bombay Municipal Corporation Act or” and “or the City of Nagpur Corporation Act, 1948”.

In Cl. 3, for “Greater Bombay, and other areas” substitute “to any area”.

In Cl (5), omit “ but does not include Greater Bombay”.

In Sec. 2, omit Cls. (5-A) and 7(7-A).<sup>1</sup>

In Sec. 2, Cl. (13-A) shall be deleted.<sup>2</sup>

## CHAPTER II

### Superintendence, control and organization of the Police Force

3. **One Police Force for the**<sup>3</sup>[whole of the<sup>4</sup>[State of Maharashtra]. There shall be one police force for the<sup>3</sup>[State of Maharashtra];

Provided that the members of the Police Forces constituted under any of the Acts mentioned in Schedule I, immediately before the coming into force of this Act<sup>5</sup>[in the relevant part of the State] shall be deemed to be the members of the said police Force.

## Gujarat Amendment

In Sec. 3 for “State of Bombay” substitute “State of Gujarat.”<sup>6</sup>

4. **Superintendence of Police Force to vest in the State Government.** The Superintendence of the Police Force throughout<sup>7</sup>[the<sup>8</sup>State of Maharashtra] vests in and is exercisable by the State Government and any control, direction or supervision exercisable by any officer over any member of the Police Force shall be exercisable subject to such superintendence.

## Gujarat Amendment:

In Sec. 4 for “State of Bombay” substitute “State of Gujarat.”<sup>9</sup>

5. **Constitution of Police Force.** Subject to the provisions of this Act-
- The Police Force shall consist of such number in the several ranks and have such organization and such powers, functions and duties as the State Government may by general or special order determine;
  - The recruitment, pay, allowances and all other conditions of service of the Police Force shall be such as may from time to time be determined by the State Government may by general or special order;

Provided that –

<sup>1</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>2</sup> Vide Gujarat Act 15 of 1964, Sec 4 and Sch.

<sup>3</sup> These words were substituted for the words “whole of the State” by Bom 34 of 1959, Sec 6.

<sup>4</sup> These words were substituted for the words “State of Bombay” by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>5</sup> These words were inserted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960, Sec. 6.

<sup>6</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>7</sup> These words were substituted for the words “the State”, by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960, Sec. 7.

<sup>8</sup> These words were substituted for the words “State of Bombay” by *ibid*.

<sup>9</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>1</sup>(i) the rules and orders governing the recruitment, pay, allowances and other conditions of service of the members of the Police Force constituted under any of the Acts mentioned in Part I or II of Sch. I and deemed to be the members of the Police Force under Sec. 3, shall continue in force until altered or cancelled under Cl. (b); but in the case of members of the Police Force constituted under any of the Acts mentioned in Part II or that Schedule such alteration or cancellation shall be subject to the proviso to sub-section (7) of Sec. 115 of the State Reorganisation Act, 1956 (XXXVII of 1956);

(ii) nothing in this clause shall apply to the recruitment, pay, allowances and other conditions of service of the members of the Indian Police and Indian Police Service.

6. **Inspector-General, Additional and Deputy Inspector General.** (1) For the Direction and supervision of the Police Force, the State Government shall appoint an Inspector-General of Police who shall exercise such powers and perform such functions and duties and shall have such responsibilities and such authority as may be provided by or under this Act or orders made by the State Government.

(2) (a) The State Government may appoint <sup>2</sup>[one or more Special Inspector-General of Police] <sup>3</sup>[one or more Additional Inspectors-General] and one or more Deputy Inspectors-General of Police.

(b) The State Government may direct that any one of the powers, functions, duties and responsibilities and the authority of the Inspector-General may be exercised, performed or discharged as the case, may be, by <sup>4</sup>[a Special Inspector-General or] <sup>5</sup>[an Additional Inspector-General] or a Deputy Inspector-General.

(c) The State Government may also by a general or special order direct that [a Special Inspector-General or] [an Additional Inspector-General] or Deputy Inspector-General shall assist and aid the Inspector-General in the performance, exercise and discharge of his powers, functions, duties, responsibilities and authority in such manner and to such extent as may be specified in the order.

<sup>6</sup>[N. B.- Retrospective effect to Secs. 2 to 6 and indemnity of officers, etc.

(1) The amendments made to the principal Act by Secs. 2 to 6 (both inclusive) of this Act shall be deemed to have been made and come into force on the 20th day of November, 1963.

(2) All acts done in good faith by any police officer, or Additional police officer, Veterinary Officer or Magistrate in pursuance or intended pursuance of the powers conferred on him by Secs. 73 to 77 (both inclusive) of the principal Act as amended by this Act during the period from the 20<sup>th</sup> November, 1963 to the date of commencement of Bombay Police (Amendment) Act, 1964 shall be deemed to be and always be deemed to have been validly done, and no such acts shall be deemed to be invalid or called in question on the ground only that the said powers in purported exercise of which the said acts were done were not at the time when the said acts were done lawfully vested in him, and all such officers and Magistrates are hereby indemnified and discharged from civil and criminal liability in respect of such acts.]

<sup>1</sup> This sub-clause was substituted for the words "the State", by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>2</sup> Ins. By Mah Act XXIV of 1971.

<sup>3</sup> Subs by Maharashtra Act 38 of 1961.

<sup>4</sup> Ins by Mah Act XXIV of 1971.

<sup>5</sup> Subs by Maharashtra Act 38 of 1961.

<sup>6</sup> Ins by Maharashtra Act 24 of 1964.

7. **Commissioner.** (a) The State Government may appoint a police officer to be the Commissioner of Police of Greater Bombay for any area specified in a notification issued by the State Government in this behalf and published in the official gazette.
- (b) The State Government <sup>1</sup>[may also appoint an additional Commissioner of Police for the areas] specified in Cl. (a).
- (c) The Commissioner shall exercise such powers, perform such functions and duties and shall have such responsibilities and authority as are provided by or under this Act or as may otherwise be directed by the State Government by general or special order:

Provided that the State Government may direct that any of the powers, functions, duties, responsibilities or authority exercisable or to be performed or discharged by the Commissioner, shall be exercised, performed or discharged subject to the control of the Inspector-General:

Provided further that the area for which a Commissioner has been appointed under the section shall not, unless otherwise provided by or under this Act, to be under the charge of the District Magistrate or the District Superintendent or any of the purpose of this Act, notwithstanding the fact that such area form part of a district within the territorial jurisdiction for which a District Magistrate or a <sup>2</sup>[Superintendent] may have been appointed.

**Gujarat Amendment:**

In Sec. 7 in Cl. (a), for “Greater Bombay or any other” substitute “any”.<sup>3</sup>

8. **Appointment of [Superintendent and] Additional, Assistant and Deputy Superintendents.** (1) The State Government may appoint for each District or for a part of a district or for one or more Districts [a Superintendent of Police] and one or more Additional, Assistant and Deputy Superintendents of Police, as it may think expedient.
- (2) The State Government may by a general or special order, empower an Additional Superintendent to exercise and perform in the district for which he is appointed or in any part thereof, all or any of the powers, functions or duties to be exercised or performed by a [Superintendent] under this Act or under any law for the time being in force.
- (3) The District Superintendent may, with the previous permission of the State Government delegate any of the powers and functions conferred on him by or under this Act to an Assistant or Deputy Superintendent;

<sup>4</sup>[Provided that, the powers, to be exercised by the Superintendent of making, altering or rescinding any rules under Sec. 33 shall not be delegated to an Assistant or Deputy Superintendent.]

**Gujarat Amendment:**

In Sec. 8 of the Bombay Police Act, 1951 in Sub-section (3), for the words “conferred on him by or under this Act to an Assistant or Deputy Superintendent”, the words “conferred on him by or under this Act, except the power to make, alter or rescind rules or orders under Sec. 33, to an Assistant or Deputy Superintendent” shall be substituted.<sup>5</sup>

<sup>1</sup> Subs by Mah Act 61 of 1974 (wef 4-11-1974).

<sup>2</sup> Subs by Mah Act 46 of 1962, Sec 3.

<sup>3</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>4</sup> Added by Maharashtra Act No. XIII of 1965.

<sup>5</sup> Vide Gujarat Act 16 of 1978, Sec 2 (wef 3-3-1978).

<sup>1</sup>[8-A.] <sup>2</sup>(Appointment of Director of Police Wireless and Superintendent], Assistant and Deputy Superintendents for Wireless System, Motor Transport System or any specific duty. (1) The State Government may appoint for the whole of the State or for any part thereof-

- <sup>3</sup>[(i) one or more Directors of Police Wireless and Deputy Inspector General of Police for the Police Wireless System (hereinafter referred to as “the Director of Police Wireless)as it thinks fit; and  
(ii) one or more Superintendents of Police and Assistant and Deputy Superintendent of Police as it thinks fit].
- a) For the Police Wireless System;  
b) For Police Motor Transport System; or  
c) For the performance of such specified duties as the State Government may from time to time determine in this behalf.
- (2) <sup>4</sup>[Any Director of Police Wireless and Superintendent] appointed shall exercise such powers and perform such functions as the State Government may from time to time <sup>5</sup>[assign to each of them]. [The Director may, with the previous permission of the State Government, delegate any of the powers and functions conferred on him by or under this Act to a Superintendent, or to an Assistant or deputy Superintendent and the Superintendent may, subject to the like previous permission, delegate such powers and functions to an Assistant or Deputy Superintendent:]

Provided that the powers and functions aforesaid shall be exercised or performed by <sup>6</sup>[the District Superintendent or Assistant or Deputy Superintendent, subject to the control of Inspector-General.]

#### **Gujarat Amendment:**

In Sec. 8-A for “State of Bombay” substitute “State of Gujarat”.<sup>7</sup>

<sup>8</sup>[9. **Appointment of Principals of Police Training Institutions.** (1) The State Government may appoint any Police officer not below the rank of Superintendent to be the Principal of the Police Training College, Nasik, or any other Police Training College established by it. The State Government may assign to each of the Principals aforesaid, such powers, functions and duties, as it may think fit.

(2) The State Government may appoint any Police Officer not below the rank of an Assistant or Deputy Superintendent to be the Principal of any Police Training School, established by it. An officer (not below the rank of a Deputy Inspector-General) authorized by the State Government in that behalf, may, subject to the control of the State Government, assign to each Principal so appointed such powers, functions and duties as he may think fit.]

#### **Gujarat Amendment:**

- (1) In Sec. 9 for “the Central Police Training School, Nasik or any other” substitute “any”.<sup>9</sup>
- (2) In Sec. 9, for the words “Principal of any Police Training School”, the words “Principal of any Training College or School” shall be substituted.<sup>10</sup>

<sup>1</sup> Subs by Maharashtra Act 28 of 1964.

<sup>2</sup> Subs by Mah Act XXIV of 1973.

<sup>3</sup> Subs by Mah Act XXIV of 1971.

<sup>4</sup> Subs by Mah Act XXIV of 1971.

<sup>5</sup> Subs by ibid.

<sup>6</sup> Subs by ibid.

<sup>7</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>8</sup> Subs by Maharashtra Act 28 of 1964.

<sup>9</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>10</sup> Vide Gujarat Act 16 of 1978, Sec. 3 (wef 3-3-1978).

10. **Deputies**<sup>1</sup>[\* \* \*] **to Commissioner.** (1) The State Government may appoint one or more Deputy Commissioners and one or more Assistant Commissioners of Police<sup>2</sup>[\* \* \*] in any area in which a Commissioner has been appointed under Cl. (a) of Sec. 7.

(2) Every such Deputy or Assistant Commissioner shall, under the orders of the Commissioner, exercise and perform any of the powers, functions and duties of the Commissioner to be exercised or performed by him under the provision of this Act or any other law for the time being in force in accordance with general or special orders of the State Government made in this behalf:

Provided that the powers to be exercised by the Commissioner<sup>3</sup>[of making, altering or rescinding rules under Sec. 33] shall not be exercisable by a Deputy<sup>2</sup>[\* \* \*] Commissioner.

#### **Gujarat Amendment:**

In Sec. 10 omit "in Greater Bombay or".<sup>4</sup>

11. <sup>5</sup>[<sup>6</sup>**Assistant Commissioner within jurisdiction of Commissioners.**] (1) The State Government may appoint<sup>7</sup>[for any area for which a Commissioners of police has been appointed under Sec. 7) such number of Superintendents of Police as it may think expedient.

(2) <sup>8</sup>[An Assistant Commissioner] appointed under sub-section (1) shall exercise such powers and perform such duties and functions as can be exercised or performed under the provisions of this Act or other law for the time being in force or as are assigned to him by the Commissioner under the general or special orders of the State Government:

Provided that the powers to be exercised by the Commissioner<sup>9</sup>[of making, altering or rescinding rules under Sec. 33] shall not be exercisable by the [Assistant Commissioner].

12. **Constitution of divisions and sections.** (1) Subject to the control of the State Government, the Commissioner<sup>10</sup>[for any area] shall, if he thinks fit-

- (a) constitute<sup>11</sup>[within the area under his charge], Police divisions,
- (b) sub-divide the same into sections, and
- (c) define the limits and extent of such divisions and sections.

(2) *Officers-in-charge of divisions and sections.* Each such division shall be in charge of an<sup>12</sup>[Assistant Commissioner] and each section shall be in charge of an Inspector of Police.

<sup>13</sup>[12.A. **Inspectors.** Subject to the general or special orders of the State Government the Commissioner for the area for which he is appointed and the Inspector-General for other areas shall appoint

<sup>1</sup> Omitted by Mah Act 46 of 1962, Sec 3 and Sch.

<sup>2</sup> The words "in Greater Bombay or" were deleted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>3</sup> These words and figures were substituted for the words and figures "under Sec 13 or 33" by Bom 57 of 1954, Sec 3.

<sup>4</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects), Order, 1960.

<sup>5</sup> This marginal note was substituted for the original by Bom Act 56 of 1959, Sec 3.

<sup>6</sup> Subs by Mah Act 46 of 1962, Sec 3 and Sch.

<sup>7</sup> The words were substituted for the words "for Greater Bombay" by Bom Act 56 of 1959, Sec 3, Schedule.

<sup>8</sup> Subs by Mah Act 46 of 1962, Sec 3 and Sch.

<sup>9</sup> These words and figures were substituted for the words and figures "under Sec 13 or 33" by Bom Act.1 of 1956, Sec. 2.

<sup>10</sup> These words were substituted for the words "for Greater Bombay" by Bom 56 of 1959. Sec 3, Schedule.

<sup>11</sup> These words were substituted for the words "within the Greater Bombay" *ibid*.

<sup>12</sup> Subs by Mah Act 46 of 1962 Sec 3 and Sch.

<sup>13</sup> Section 12-A was inserted by Bom 28 of 1954, Sec 2.



Inspectors].

13. **Inspector-General and Commissioner to exercise the power of First Class Magistrate and Presidency Magistrate].** Deleted by Bom. XXI of 1954. Second Sch.

14. **Certificate of appointment.** (1) Every Police officer <sup>1</sup>[\* \* \*] <sup>2</sup>[of the grade of Inspector or below], shall on appointment receive a certificate in form provided in Schedule II. The certificate shall be issued under the seal of such officer as the State Government may, by general or special order direct.

(2) A certificate of appointment shall become null and void whenever person named therein ceases to belong to the Police Force or shall remain inoperative during the period within which such person is suspended from such force.

15. **Effect of suspension of Police officer.** The powers, functions and privileges vested in a police shall remain suspended whilst such Police officer is under suspension from office:

Provided that notwithstanding such suspension, such person shall not cease to be a Police officer and shall continue to be subject to the control of the same authorities to which he would have been, if he was not under suspension.

16. **General powers of Commissioner and [Superintendent].** The Commissioner, subject to the orders of the Inspector-General and the [Superintendent], subject to the orders of the Inspector-General and the District Magistrate, shall, within their respective spheres of authority, direct and regulate all matters of arms, drill, exercise, observation of persons and events, mutual relations, distribution of duties, study of laws, orders and modes of proceedings and all matters of executive detail or the fulfilment of their duties by the Police Force under him.

17. **Control of District Magistrate over Police Force in district.** (1) The <sup>3</sup>[Superintendent] and the Police Force of a district shall be under the control of the District Magistrate.

(2) In exercising such control the District Magistrate shall be governed by such rules and orders as the State Government may make in this behalf <sup>4</sup>[and shall be subject to the lawful orders of the Revenue Commissioner].

### **Gujarat Amendment :**

In Sec. 17, in sub-section (2), the words “and shall be subject to the lawful orders of the Revenue Commissioner” shall be deleted.<sup>5</sup>

18. **Power of District Magistrate to require reports from [Superintendent].** The District Magistrate may require from the [Superintendent] reports, either particular or general, or any matter connected with the crimes, habitual offenders, the prevent on of disorder, the regulation of a assemblies and amusements, the distribution of the Police Force, the conduct and character of any Police officer subordinate to the [Superintendent], the utilization of auxiliary means and all other matters in furtherance of his control of the Police Force and the maintenance of order.

<sup>1</sup> The words “of and” were deleted by Bom 20 of 1953, Sec 3.

<sup>2</sup> These words were substituted for the words “below the grade of Inspector” by Bom 28 of 1954, Sec. 3.

<sup>3</sup> Subs by Mah Act 46 of 1962, Sec. 3, Sch.

<sup>4</sup> These words were added by Bom Act 8 of 1958, Sec. 3, Schedule.

<sup>5</sup> Vide Gujarat Act 15 of 1964. Sec. 4 and Sch.

19. **Power of supervision by district Magistrates.** If the District Magistrate observes any marked incompetence or unfitness for the locality or for his particular duties in any Police officer subordinate to the [Superintendent], he may require the [Superintendent] to substitute another officer for any officer whom he has power to transfer and the [Superintendent] shall be bound to comply with the requisition:

Provided that if the Police officer concerned is an officer <sup>1</sup>[of a grade higher than that of an Inspector] the District Magistrate may report his conduct to the Inspector-General. The Inspector-General may, thereafter, determine the action to be taken and pass such orders as he thinks fit, and shall communicate such action or order to the District Magistrate.

20. **Power of Inspector-General and Commissioner to investigate and regulate matters of Police accounts.** The Inspector-General, throughout the <sup>2</sup>[State] and the Commissioner in the area for which he is appointed, shall, subject to the orders of the State Government, have authority to investigate and regulate all matters of account connected with the Police in the [State] or in the area, as the case may be, and all persons concerned shall be bound to give him reasonable aid and facilities in conducting such investigations and to conform to his orders consequent thereto.

21. **Special Police officers.** (1) The Commissioner, the District Superintendent, or any Magistrate <sup>3</sup>[\* \* \* \*] specially empowered in this behalf by the State Government, may, at any time by a written order signed by himself and sealed with his own seal, appoint any able bodied male person between the ages of 18 and 50, whom he considers fit to be a special Police officer to assist the Police Force on any occasion, when he has reason to apprehend the occurrence of any riot or grave disturbance of the peace within the limits of his charge and he is of opinion that the ordinary Police Force is not sufficient for the protection of the inhabitants and for the security of property.

- (1) Every special Police officer so appointed shall on appointment -
  - (a) receive a certificate in a form approved by the State Government in this behalf.
  - (b) have the same powers, privileges and immunities and be liable to the same duties and responsibilities and be subject to the same authorities as an ordinary Police officer.

22. **Appointment of additional Police.** (1) Additional Police officers of such rank or grade for such time and on such pay as the authority specified or under the provisions of this Act in that behalf may determine, may be employed or deputed for the purpose stated in such provisions.

- (2) Every additional Police officer appointed shall, on appointment, -
  - (a) receive a certificate in a form approved by the State Government in this behalf,
  - (b) be vested with all or such of the powers, privileges and duties of a Police officer as are specially mentioned in the certificate, and
  - (c) be subject to the orders of the Commissioner or the <sup>4</sup>[Superintendent,] as the case may be.
- (3) The employment or deputation of such additional Police officer may be made at the request of any person requiring such Police and the cost of such employment, shall be recovered in such matter as is provided by or under this Act or under any other law for the time being in force.

<sup>1</sup> These words were substituted for the words "of the grade of the Inspector of a higher grade" by Bom Act 28 of 1954, Sec. 4.

<sup>2</sup> These words were substituted for the words "pre-Reorganisation State of Bombay excluding the transferred territories" by Bom Act 34 of 1954, Sec. 11.

<sup>3</sup> The words "not lower in rank than that of second class", were deleted by Bom Act 21 of 1954, Sec. 3, Second Sch.

<sup>4</sup> Subs by Mah Act 46 of 1962 Sec 3 and Sch.

- <sup>1</sup>[22-A. **Appointment of Railway Police.** (1) The State Government may, by notification in the official *Gazette*, create one or more special police district embracing such railway areas in the State as it may specify, and appoint a Superintendent of Police, <sup>2</sup>[one or more Assistant and Deputy Superintendent] and such other Police officers for each such special districts as it may think fit.
- (2) Subject to the control of the Inspector-General, such police officers shall discharge police functions connected with the administration of railways situated within their respective charges, and such other functions as the State Government may from time to time assign to them.
- (3) Any member of the said Police Force whom the State Government shall generally or specially empowered to act under this sub-section may, subject to any orders which the Government may make in this behalf, exercise within the special district or any part thereof, any of the powers of an officer in charge of a police station in that district, and when so exercising such powers shall, subject to any such order as aforesaid, be deemed to be an officer in charge of the police station discharging the functions of such officer within the limits of his station.
- (4) Subject to any general or special orders which the State Government may make in this behalf, such police officers shall, in the discharge of their functions, be vested within every part of the State with the powers and privileges and be subject to the liabilities of police officers under this Act or any other law for the time being in force.
- <sup>3</sup>(5) The Superintendent of Police may, with the previous permission of the State Government, delegate any of the powers and functions conferred on him by or under this Act to an Assistant or Deputy Superintendent].

### CHAPTER III

#### **Regulation, Control and Discipline of the Police Force**

23. **Framing of rules for administration of the Police.** Subject to the orders of the State Government the Commissioner in the case of the Police Force allocated to Greater Bombay and other areas for which he has been appointed and the Inspector-General in the case of the Police Force allocated to other areas, may make rules or orders not inconsistent with this Act or with any other enactment for the time being in force-
- (a) regulating the inspection of the Police Force by his subordinates;
  - (b) determining the description and quantity of arms, accoutrements, clothing and other necessities to be furnished to the Police;
  - (c) prescribing the places of residence of members of the Police Force;
  - (d) for institution, management and regulation of any Police fund for any purpose connected with police administration;
  - (e) regulating, subject to the provisions of Sec. 17, the distribution movements and location of the Police;
  - (f) assigning duties to Police officers of all ranks and grades, and prescribing -
    - (i) the manner in which, and
    - (ii) the conditions subject to which, they shall exercise and perform their respective powers and

<sup>1</sup> This section was inserted by Bom Act 34 of 1959, See 12.

<sup>2</sup> Ins by Maharashtra Act 28 of 1964.

<sup>3</sup> Ins by Maharashtra Act 28 of 1964.

duties:

- (g) regulating the collection and communication by the Police of intelligence and information;
- (h) generally, for the purpose of rendering the Police efficient and preventing abuse or neglect of their duties.

#### **Gujarat Amendment:**

In Sec. 23, omit “Greater Bombay and other”.<sup>1</sup>

24. ***Inspector- General or Commissioner may call for returns.*** (1) The Inspector-General may, subject to the rules and orders of the State Government, call for such returns, reports and statements on subject connected with the suppression of crime, the maintenance of order and the performance of their duties as his subordinates may be able to furnish to him. The Inspector-General shall communicate to the District Magistrate <sup>2</sup>[and the Revenue Commissioner] any general orders issued by him for the purposes aforesaid or in consequence of the information furnished to him, and also any orders which the State Government may direct.
- (2) The Commissioner may subject as aforesaid with reference to the area under his charge, call for such reports, returns and statements as are provided for in sub-section (1).

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<sup>1</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects Order, 1960.

<sup>2</sup> These words were inserted by Bom 8 of 1958, Sec 3. Schedule.

## Gujarat Amendment:

In Sec. 24, in sub-section (1). the words “and the Revenue Commissioner” shall be deleted.<sup>1</sup>

25. ***Punishment of the members of the subordinate ranks of the Police Force departmentally for neglect of duty etc.*** (1) The State Government or any officer authorised by sub-section (2) in that behalf may suspend, reduce, dismiss or remove <sup>2</sup>[an Inspector or] any member of the subordinate ranks of the Police Force whom he shall think cruel, perverse, remiss or negligent in the discharge of his duty or unfit for the same, and may fine in an amount not exceeding one month's pay, any member of the subordinate ranks of the Police Force, who is guilty of any breach of discipline or misconduct or any act rendering him unfit for the discharge of his duty, which does not require suspension or dismissal.

(2) ***Punitive powers of Inspector-General, Commissioner, Deputy Inspector-General*** <sup>3</sup>[including Director of Police Wireless] and <sup>4</sup>[Superintendent] and <sup>5</sup>(Principal of Training Institute.)

(a) The Inspector-General, the Commissioner and the Deputy Inspector-General <sup>6</sup>[(including the Director of Police Wireless) shall have authority to punish <sup>7</sup>[an Inspector or] any member of the subordinate ranks under sub-section (1), A <sup>5</sup>[Superintendent] shall have the like authority in respect of any Police officer subordinate to him below the grade of Inspector <sup>8</sup>[and may suspend an Inspector who is subordinate to him pending inquiry into a complaint against such Inspector and until an order of the Inspector-General or Deputy Inspector-General <sup>4</sup>[(including the Director of Police Wireless) can be obtained].

(b) The Principal of <sup>9</sup>[a Police Training College] shall also have the like authority in respect of any member of the subordinate ranks of the Police Force below the grade of inspector <sup>10</sup>[undergoing training at <sup>11</sup>[such College] or] serving under him, and in respect of head constables and constables belonging to the Police Force of <sup>12</sup>[the District in which [such college] is situate] or of any other district all attached to [such school] for duty under him, <sup>13</sup>[He may also suspend an Inspector who is <sup>14</sup>[undergoing training at [such college or] subordinate to him pending inquiry into a complaint against such Inspector and until an order of the Inspector-General or Deputy Inspector General can be obtained.]

<sup>15</sup>(ba) The Principal of a Police Training School shall have authority to impose a punishment of reduction and fine in the like circumstances and to the like extent, for the demeanors, mentioned in sub-section (1) on any head constable and constable undergoing training at such school or serving under him, or attached to such school for duty under him.]

<sup>1</sup> Vide Gujarat Act 15 of 1964, Sec 4 and Sch.

<sup>2</sup> The words “an Inspector or” were, inserted by Bom 28 of 1954, Sec 5(1).

<sup>3</sup> Ins by Maharashtra Act XXIV of 1971.

<sup>4</sup> Subs by Mah Act 46 of 1962, Sec. 3.

<sup>5</sup> Added by Maharashtra Act 28 of 1964.

<sup>6</sup> Ins by Maharashtra Act XXIV of 1971.

<sup>7</sup> The words “an Inspector or” were inserted, Bom 28 of 1954. Sec. 5 (i).

<sup>8</sup> These words were inserted by Bom 28 of 1954, Sec. 5 (2) (ii).

<sup>9</sup> These words were substituted for the words “Police Training School” by Mah 28 of 1964 Sec. 5 (a).

<sup>10</sup> These words were inserted by Bom 6 of 1955, Sec. 2 (1).

<sup>11</sup> These words were substituted for the words “such school” by Maharashtra Act 28 of 1964.

<sup>12</sup> These words were substituted for the words “the Nasik District” Bom 34 of 1959, Sec. 13 (i) (c).

<sup>13</sup> These words were deleted by Bom 20 of 1953, Sec. 4 (2) and again inserted by Bom 28 of 1954. Sec. 5 (3).

<sup>14</sup> These words were inserted by Bom 6 of 1955, Sec. 2 (2).

<sup>15</sup> Ins by Maharashtra Act 28 of 1964.

- (c) The exercise of any power conferred by this sub-section shall be subject always to such rules and orders as may be made by the State Government in that behalf.

(3) Nothing in sub-sections (1) and (2)

- (a) shall affect any Police officer's liability to a criminal prosecution for any offence with which he may be charged; or
- (b) shall entitle any authority subordinate to that by which the Police officer was appointed to dismiss or remove him.

### **Gujarat Amendment:**

In Sec. 25, in sub-section (2), in clause (b),-

- (i) for the words "Police Training School", the words "a Police Training College or School" shall be substituted;
- (ii) for the words "school" whenever it occurs, the words "college or school" shall be substituted.<sup>2</sup>

**26. Procedure to be observed in awarding punishment.** When any officer passes an order for fining, suspending, reducing, removing or dismissing a Police officer, he shall record such order or cause the same to be recorded, together with the reasons therefore and a note of the inquiry made, in writing, under his signature.

Provided that <sup>3</sup>[no order for reducing, removing or dismissing a Police officer] shall be passed without giving him a reasonable opportunity of showing cause against the action proposed to be taken against him except in cases referred to in the proviso (a) to Cl. (2) of Art. 311 of the Constitution.

**27. Appeals from orders of punishment.** An appeal against any order passed against a Police officer under Sec. 25 or the rules or orders thereunder shall lie to the State Government itself or to such officer as the State Government may by general or special order specify.

### **Gujarat Amendment:**

In Sec. 27, the following shall be added at the end, namely:

"such appeal shall be filed within a period of sixty days from the date of the order appealed against".<sup>4</sup>

After Sec. 27, the following new section shall be inserted, namely:

**"27-A. Divisional powers of State Government, Inspector-General and Deputy Inspector-General.** The State Government, the Inspector-General or a Deputy Inspector-General may, suo motu or on application made to him within the prescribed period in this behalf, call for and examine the record of any inquiry or proceeding of any subordinate police officer under this Chapter, for the purpose of

<sup>1</sup> Deleted by Maharashtra Act XXIV of 1971.

<sup>2</sup> Vide Gujarat Act 16 of 1978, Sec. 4, i.e. 3-3- 1978.

<sup>3</sup> These words were substituted for the words "no such order" by Bom 57 of 1954, Sec. 4.

<sup>4</sup> Vide Gujarat Act 16 of 1978, Sec. 5, w.e.f. 3.3.1978.

satisfying itself or himself, as the case may be, as to the legality or propriety of any decision or order passed by, and as to the regularity of the proceedings of such officer, and may, of any time,-

- (a) confirm, modify or reverse any such order,
- (b) impose any penalty or set aside, reduce, confirm or enhance penalty imposed by such order,
- (c) direct that further inquiry may be held, or
- (d) make such other order as, in circumstances of the case, it or he may deem fit:

Provided that an order in revision imposing or enhancing penalty shall not be passed unless the police officer affected thereby has been given a reasonable opportunity of being heard:

Provided further that no order in revision shall be passed-

- (i) in a case where an appeal against the decision or order passed in such inquiry or proceeding has been filed, when such appeal is pending;
- (ii) in a case where an appeal against such decision or order, has not been filed, before the expiry of the period provided for filing such appeal; and
- (iii) in any case after the expiry of a period of three years from the date of the decision or order sought to be revised.<sup>1</sup>

**28. Police officers to be deemed to be always on duty and to be liable to employment in any part of the State.** (1) Every Police officer not on leave or under suspension shall for all purposes of this Act be deemed to be always on duty, and any Police officer or any number or body of Police officers allocated for duty in one part of the State may, if the State Government or the Inspector General so directs, at any time, be employed on Police duty in any other part of the State for so long as the services of the same may be there required.

(2) *Intimation of proposed transfers to be given by the Inspector-General to the Commissioner and District Magistrate.* Timely intimation shall, except in cases of extreme urgency, be given to the <sup>2</sup>[Revenue Commissioner] and the District Magistrate by the Inspector-General, of any proposed transfer under this section, and, except, where secrecy is necessary the reasons for the transfer shall be explained; whereupon the officers aforesaid and their subordinates shall give all reasonable furtherance to such transfer.

### **Gujarat Amendment:**

In Section 28, in sub-section (2), the words 'the Revenue Commissioner and' shall be deleted.<sup>3</sup>

**29. Under what conditions Police officer may resign.** <sup>4</sup>(1) No Police officer <sup>5</sup>[of the grade of Inspector or] of the subordinate rank shall resign his office or withdraw himself from the duties thereof except with the written permission of the Commissioner or the Deputy Inspector-General, Criminal Investigation Department, or of the Principal of <sup>6</sup>[a Police <sup>7</sup>[Training College] or of the District Superintendent or of some other Police officer empowered by the Inspector-General or the Commissioner to grant such permission:

Provided that subject to the provisions of sub-section (2), no such permission shall be granted to any

<sup>1</sup> Vide Gujarat Act 16 of 1978, Sec. 6, w.e.f. 3-3-1978.

<sup>2</sup> These words were substituted for the words "Commissioner" by Bom 8 of 1958, Sec. 3, Schedule.

<sup>3</sup> Vide Gujarat Act 15 of 1964, Sec. 4 and Sch.

<sup>4</sup> Sub-section (1) was substituted for the original by Bom 20 of 1953, Sec. 5.

<sup>5</sup> These words were inserted by Bom 8 of 1954, Sec. 6.

<sup>6</sup> Subs by Bom Act 34 of 1959 Sec. 15,

<sup>7</sup> These words were substituted for the words "a Police Training School" by Maharashtra Act 28 of 1964.

such Police officer until he has fully discharged any debt due by him as such Police officer to Government or to any Police fund.

- (2) If any such Police officer produces a certificate signed by the Police Surgeon or the Civil Surgeon declaring him to be unfit by reason of disease or mental or physical incapacity for further service in the Police, the necessary written permission to resign shall forthwith be granted to him on his discharging or giving satisfactory security for the payment of any debt due by him as such Police officer to Government or to any Police fund.
- (3) *Arrear of pay of a Police officer contravening this section may be forfeited.* If any such Police officer as aforesaid resigns or withdraws himself from the duties of his office in contravention of this section, he shall be liable on the order of the Commissioner, or the Deputy Inspector-General, Criminal Investigation Department or of the Principal of <sup>1</sup>[the Police <sup>2</sup>[Training College] or of the <sup>3</sup>[Superintendent] as the case may be, to forfeit all arrears of pay then due to him. This forfeiture shall be in addition to the penalty to which the said officer is liable under Sec. 145 of this Act or any other law in force.

### Gujarat Amendment:

In Sec. 29,

- (a) In sub-section (1), for the words "a Police Training School" the words "a Police Training College or School" shall be substituted;
- (b) in sub-section (3), for the words "the Police Training School", the words "the Police Training College or School" shall be substituted.<sup>4</sup>

30. ***Certificates, arms, etc. to be delivered up by person ceasing to be a police officer.*** (1) Every person who for any reason ceases to be a police officer shall forthwith deliver up to some officer empowered by the Commissioner or the Deputy Inspector-General, Criminal Investigation Department, or the Principal of <sup>5</sup>[the Police <sup>6</sup>[Training College] or the District Superintendent to whom such Police officer is subordinate to receive the same, his certificate of appointment or of office and the arms, accoutrements, clothing and other necessaries which have been furnished to him for the performance of duties and functions connected with his office.

- (2) ***If not delivered up may be seized under a search warrant.*** Any Magistrate and, for special reasons which shall be recorded in writing at the time the Commissioner or the Deputy Inspector-General, Criminal Investigation Department, or the Principal of <sup>1</sup>[the Police <sup>2</sup>[Training College]] or any <sup>3</sup>[Superintendent] Assistant Superintendent or Deputy Superintendent may issue a warrant to search for and seize, wherever they be found, any certificate, arms, accoutrement, clothing or other necessaries not so delivered up. Every warrant so issued shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1898 (V of 1898), by a Police officer or, if the Magistrate, the Commissioner, the Deputy Inspector-General, Criminal Investigation Department, the Principal of the Central Police Training School, Nasik, the District Superintendent, the Assistant Superintendent or the Deputy Superintendent issuing the warrant so directs, by any other person.

<sup>1</sup> These words were substituted for the words "the Central Police School, Nasik" by Bom 34 of 1959, Sec. 14 (2).

<sup>2</sup> These words were substituted for the words "Training School" by Maharashtra Act 28 of 1954.

<sup>3</sup> Subs by Mah Act 46 of 1962 Sec. 3 and Sch.

<sup>4</sup> Vide Gujarat Act 16 of 1978, Sec. 7, w.e. f. 3-3-1978.

<sup>5</sup> These words were substituted for the words "The Central Police Training School, Nasik" by Bom 34 of 1959 of Sec. 15.

<sup>6</sup> These words were substituted for the words "Training School" by Maharashtra Act 28 of 1964.



(3) *Saving of certain articles.* Nothing in this section shall be deemed to apply to any article which, under the orders of the Inspector-General, or the Commissioner, as the case may be, has become the property of the person to whom the same was furnished.

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## Gujarat Amendment:

In Sec. 30,

- (a) in sub-section (1), for the words “the Police Training School”, the words “the police Training College or School” shall be substituted;
- (b) in sub-section (2) for the words “the Police Training School” at both the places where they occur, the words “the Police Training College or School” shall be substituted.<sup>1</sup>

31. **Occupation of and liability to vacate premises provided Police officers.** (1) Any police officer occupying any premises provided by the State Government for his residence -

- (a) shall occupy the same subject to such conditions and terms as may generally or in special cases, be specified by the State Government, and
- (b) shall, notwithstanding anything contained in any law for the time being in force vacate the same on his ceasing to be a Police officer or whenever the State Government or any officer authorized by the State Government in this behalf thinks it necessary and expedient to require him to do so.

(2) If any person who is bound or required under sub-section (1) to vacate any premises fails to do so, the State Government or the officer authorised in this behalf by the State Government may order such person to vacate the premises and may direct any Police officer with such assistance as may be necessary to enter upon the premises and remove therefrom any person found therein and to take possession of the premises and deliver the same to any person specified in the direction.

<sup>2</sup>[32. **State Government may make order under Sec. 144 of Act V of 1898.** The State Government, whenever it shall seem necessary, may by notification in the Official Gazette make an order to such effect as any order if made by a Magistrate under Sec. 144 of the Code of Criminal Procedure, 1898 (V of 1898), could be continued in force by the State Government under the said Code].

## CHAPTER IV

### Police Regulations

33. **Power to make rules or regulation of traffic and for presentation of order in public place, etc.**

<sup>3</sup>[The Commissioner with respect to any of the matters specified in this sub-section, the District Magistrate with respect to any of the said matters (except those falling under Cls. <sup>4</sup>[(a), (b), (d), (db), (e), (g), (r), (t) and (u)] thereof and the Superintendent of Police with respect to the matters falling under the clauses aforementioned read with Cl. (y) to this sub-section], in areas under their respective charges or any part thereof, may make, alter or rescind rules or orders not inconsistent with this Act for-

- (a) licensing and controlling persons offering themselves for employment at quays, wharves and landing places, and outside Railway stations for the carriage of passenger's baggages and fixing and providing for the enforcement of a scale of charges for the labour of such persons so employed;
- (b) regulating traffic of all kinds in streets and public places, and the use of streets and public places by persons riding, driving, Cycling, walking or leading or accompanying cattle, so as to prevent

<sup>1</sup> Vide Gujarat Act 16 of 1978, Sec. 8, w.e.f. 3-3-1978.

<sup>2</sup> This section was substituted for the original by Bom 34 of 1959, Sec. 16.

<sup>3</sup> Subs by Maharashtra Act XIII of 1965.

<sup>4</sup> Subs by Maharashtra Act 45 of 1967.

danger, obstruction or inconvenience to the public;

- (c) regulating the conditions under which vehicles may remain standing in streets and public places, and the use of streets as halting places for vehicles or cattle;
- (d) prescribing the number and position of lights to be used on vehicles in streets and the hours between such lights shall be used;

<sup>1</sup>[(da) licensing, controlling or prohibiting the display of any pictures, advertisements, news boards or public notices upon a vessel or boat in territorial waters or on inland waterways other than national waterways;

<sup>2</sup>[(db) licensing, controlling or prohibiting the erection, exhibition, fixation or retention of any sign, device or representation for the purpose of advertisement, which is visible against the sky from some point in any street and is hoisted or held aloft over any land, building or structure at such height as (regard being had to the traffic in the vicinity, and the likelihood of such sign, device or representation at that height being a distraction or causing obstruction to such traffic) may be specified in the rule or order ;]

- (e) prescribing certain hours of the day during which cattle shall not be driven along the streets, or along certain specified streets, except subject to such regulations as he may prescribe in that behalf;
- (f) regulating the leading, driving, conducting or conveying of any elephant or wild or dangerous animal through or in any street;
- (g) regulating and controlling the manner and mode of conveying timber, scaffold poles, ladders, iron girders, beams or bars, boilers or other unwieldy articles through the streets, and the route and hours for such conveyance ;
- (h) licensing, controlling or, in order to prevent the obstruction, inconvenience, annoyance, risk, danger or damage of the residents or passengers in the vicinity, prohibiting the carrying in streets and public places of gunpowder or any other explosive substances;
- (i) prohibiting except along certain specified streets and during specified hours and subject to such regulations as he may prescribe in that behalf, the exposure or movement in any street of persons or animals suffering from contagious or infectious diseases and the carcasses of animals or part thereof and the corpses of persons deceased;
- (j) prescribing certain hours of the day during which odour or offensive matter or objects shall not be taken from or into houses or buildings in certain streets or conveyed through such streets except subject to such rules as he may make in that behalf;
- (k) setting apart places for the slaughtering of animals, the cleaning of carcasses or hides, the deposit of noxious or offensive matter and for obeying calls of nature ;
- (l) in cases of existing or apprehended epidemic or infectious disease of men or animals, the

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<sup>1</sup> Clause (da) was Inserted by Bom 20 of 1953, Sec. G (1).

<sup>2</sup> Clause (db) was Inserted by Bom 37 of 1959, Sec. 2.

cleanliness and disinfection of premises by the occupier thereof and resident therein and the segregation and management of the persons or animals diseased or supposed to be diseased, as may have been directed or approve by the State Government, with a view to prevent the disease of to check the spreading thereof;

- (m) directing the closing or disuse, wholly or for certain purposes, or limiting to certain purposes only the use of any source, supply or receptacle of water and providing against pollution of the same or of the water therein;
- (n) licensing, controlling or, in order to prevent the obstruction, inconvenience, annoyance, risk, danger or damage of the residents or passengers in the vicinity, prohibiting the playing of music, the beating of drums, tom-toms of other instruments and the blowing or sounding of horns or other noisy instruments in or near streets or public places;
- (o) regulating the conduct of and behaviour or action of persons constituting assemblies and processions on or along the streets and prescribing in the case of processions, the routes by which, the order in which and the times at which the same may pass;
- (p) prohibiting the banging or placing of any cord or pole across a street or part thereof, or the making of a projection or structure so as to obstruct traffic or the free access of light and air;
- (q) prohibiting, except under such reasonable rules as he may make, the placing of building materials or other articles or the fastening or detention of any horse or other animals in any street or public places.
- (r) licensing, controlling or, in order to prevent obstruction, inconvenience, annoyance, risk, danger or damage of the residents or passengers in the vicinity, prohibiting-
  - (i) the illumination of streets and public places and the exteriors of building abutting thereon by persons other than servants of Government or Municipal officers duly authorized in that behalf;
  - (ii) the blasting of rock or making excavations in or near streets or public places;
  - (iii) the using of a loudspeaker in <sup>1</sup>[or near any public place or in any] place of public entertainment;
- (s) closing certain streets or places temporarily, in cases of danger from ruinous buildings or other cause, with such exceptions as shall appear reasonable;
- (t) guarding against injury to person and property, in the construction, repair and demolition of building, platforms and other structures from which danger may arise to passengers, neighbours or the public;
- (u) prohibiting the setting fire to or burning any straw or other matter, or lighting a bonfire or wantonly discharging a fire, arm or airgun, or letting off or throwing a fire- work or, sending up a fire balloon or rocket in or upon or within fifty feet of a street or building or the putting up of any post or other thing on the side of or across a street for the purpose of affixing thereto lamps or other contrivances for illumination, except subject to such reasonable rules, as he may make in that behalf;
- (v) regulating the hours during which and the manner in which any place for the disposal of the dead,

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<sup>1</sup> These words were substituted for the words "any public place or" by Bom 28 of 1954, Sec. 7.

any dharamshala, village-gate or other place of public resort may be used, so as to secure the equal and appropriate application of its advantages and accommodation and to maintain orderly conduct amongst those who resort thereto;

- (w) (i) licensing or controlling places of public amusement or entertainment;
- (ii) prohibiting the keeping of places of public amusement or entertainment or assembly, in order to prevent obstruction, inconvenience, annoyance, risk, danger or damage to the residents or passengers in the vicinity;
- (iii) regulating the means of entrance and exit at places of public amusement or entertainment or assembly, and providing for the maintenance of public safety and the prevention of disturbance thereat;

<sup>1</sup>[(wa) (i) licensing or controlling <sup>2</sup>[in the interest of public order decency or morality or in the interest of the general public with such exceptions as may be specified, the musical, dancing, mimetic or theatrical or other performances for public amusement, including melas and *tamashas* ;

(ii) regulating in the interest of public order, decency or morality or in the interest of the general public, the employment of artists and the conduct of the artists and the audience at such performances;

(iii) prior scrutiny of such performances <sup>2</sup>[and of the scripts in respect thereof, if any, and granting of suitability certificate therefore subject to conditions, if any], <sup>3</sup>[ by the Board appointed by the State Government for the purpose, either for the whole State or the area concerned] <sup>4</sup>[the members of the Board being persons who in the opinion of the State Government possess knowledge of, or experience in literature, the theatre and other matters relevant to such scrutiny, or by an Advisory Committee appointed by the Commissioner, or the District Magistrate in this behalf ;]

<sup>5</sup>[Provision for appeal against the order or decision of the Board to the prescribed authority, its appointment or constitution, its procedure and other matters ancillary thereto, and the fees (whether in the form of court-fee stamp or otherwise) to be charged for the scrutiny of such performances or scripts for applications for obtaining such certificates and for issuing duplicates thereof and in respect of such appeals;]

(iv) regulating the hours during which and the places at which such performances may be given;

(x) regulating or prohibiting the sale of any ticket or pass for admission, by whatever name called, to a place of public amusement;

<sup>6</sup>[(xa) registration of eating-houses, included granting a certificate of registration in each case, which shall be deemed to be written permission required and obtained under this Act for keeping the eating-house, and annual renewal of such registration within prescribed period;

(y) prescribing the procedure in accordance with which any licence or permission sought to be

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<sup>1</sup> Clause ( wa) was inserted by Bom 20 of 1953. Sec. 6 (2).

<sup>2</sup> Ins by Maharashtra Act XXXVII of 1973.

<sup>3</sup> Sub, by Maharashtra Act XIII of 1965.

<sup>4</sup> Ins by Maharashtra Act XXXVII of 1973.

<sup>5</sup> Added by Maharashtra Act No. XXXVII of 1973.

<sup>6</sup> Ins by Maharashtra Act II of 1969.

obtained or required under this Act should be applied for and fixing the fees to be charged for any such licence or permission:

Provided that nothing in this section and no licence <sup>1</sup>[or certificate of registration] granted under any rule made thereunder shall authorize any person to import, export, transport, manufacture, sell or possess any liquor, or intoxicating drug, in respect of which a licence, permit, pass or authorization is required under the Bombay Prohibition Act, 1949.

<sup>2</sup>\* \* \* \* \*

or under any other law for the time being in force <sup>3</sup>(relating to the Abkari revenue or to the prohibition of the manufacture, sale and consumption of liquor) or shall affect the liability of any person under any such law or shall in any way affect the provisions of the Arms Act, 1878 (XI of 1878), or of the Explosives Act, 1884 (IV of 1884), or of any rules made under either of those enactments, or the liability of any person thereunder:

Provided further that any action taken under the rules or orders made under this sub-section or the grant of a licence [or certificate of registration] made under such rules or orders shall be subject to the control and supervision of the State Government:

<sup>4</sup>[Provided also that, against any order granting or refusing to grant or renew or revoking <sup>5</sup>[or refusing to grant or renew or revoking any certificate of registration for any eating-house] an appeal shall lie to the State Government itself or to such officer as the State Government may by general or special order specify, within thirty days from the date of receipt of such order by the aggrieved person).

<sup>6</sup>[(1. A) The power to make rules or order under Cls. (w), (wa) and (x) of sub-section (1) shall in the first instance have effect only in relation to <sup>7</sup>[the Bombay area of the state of Maharashtra], but the State Government may by notification in the Official Gazette provide that such power under any or all of those clauses, shall also have effect, from such date as may be specified in the notification, in any other area of the State.]

[(1. B) The power to make rules, orders or appointment under Cls. (w), (wa), (x) and (xa) in so far as it relates to a licence or permission under any of these clauses, under Cl. (y) of sub-section (1), may subject to the provisions of sub-section (1A) also be exercised by Revenue Commissioner in the revenue division under his charge.]

(2) (i) The power of making, altering or rescinding rules under Cls. (a), (b) and (c) of sub-section (1) shall be subject to the control of the State Government.

(ii) The power of making, altering, or rescinding rules under the remaining clauses of sub-section (1) shall be subject to the previous sanction of that Government.

(3) Every rule made under Cl. (v) of sub-section (1) with respect to the use of a place for the disposal

<sup>1</sup> Subs by Maharashtra Act II of 1969.

<sup>2</sup> This portion was deleted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>3</sup> These words were substituted for the word, "relating to the Abkari revenue" by *ibid*.

<sup>4</sup> Added by Maharashtra Act 45 of 1967.

<sup>5</sup> Ins by Maharashtra Act II of 1969.

<sup>6</sup> This sub-section was inserted by Bom 34 of 1959, Sec 17 (2).

<sup>7</sup> These words were substituted for the words "area of the pre-Reorganisation State of Bombay excluding the transferred territories" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

of the dead shall be framed with due regard to ordinary and established usages and to the necessities of prompt disposal of the dead in individual cases.

- (4) Every rule promulgated under the authority of Cl. (1) of sub-section (1) shall, if made in relation to <sup>1</sup>[any area which is not under the charge of a Commissioner] be forthwith <sup>2</sup>[reported to the Revenue Commissioner and the State Government].
- (5) If any rule or order made or promulgated under this section relates to any matter with respect to which there is a provision in any law, rule or bye-law of any municipal or local authority in relation to the public health, convenience or safety of the locality, such rule or order shall be subject to such law, rule or bye-law of the municipal or local authority, as the case may be.
- (6) The power of making, altering or rescinding rules under this section shall be subject to the condition of the rules being made, altered or rescinded after previous publication, and every rule made or alteration or rescission of a rule made under this section shall be published in the Official Gazette and in the locality affected thereby by affixing copies thereof in conspicuous places near to the building, structure, work or place, as the case may be, to which the same specially relates or by proclaiming the same by the beating of drum or by advertising the same in such local newspapers in English or in the local language, as the authority making, altering or rescinding the rule may deem fit or by any two or more of these means or by any other means it may think suitable:

Provided that any such rules may be made, altered or rescinded without previous publication if the <sup>3</sup>[Revenue Commissioner], or the District Magistrate, as the case may be, is satisfied that circumstances exist which renders it necessary that such rules or alterations therein or rescission thereof should be brought into force at once.

- (7) Notwithstanding anything hereinbefore contained in this section or which may be contained in any rule made thereunder, it shall always be lawful for the competent authority to refuse a licence for, or to prohibit the keeping of any place of public amusement or entertainment <sup>4</sup>[or to refuse a certificate of registration for or to prohibit the keeping of any eating-house, as the case may be] by a person of notoriously bad character.
- (8) It shall be the duty of all persons concerned to conform to any order duly made as aforesaid so long as the same shall be in operation,

### **Gujarat Amendment:**

In Section 33,-

- (a) in sub-section (1), for the words beginning with the words “the Commissioner and the District Magistrate” and ending with the words “with this Act for” the following shall be substituted, namely:

“The Commissioner, with respect to all or any of the following matters specified in this sub-section and the District Magistrate, with respect to all or any of the said matter except the

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<sup>1</sup> These words were substituted for the words “any area outside Greater Bombay” by Bom 56 of 1959, Sec. 3, Schedule.  
<sup>2</sup> These words were substituted for the words beginning with the words “reported to” and ending with “in this behalf” by Bom 8 of 1958. Sec. 3, Schedule.  
<sup>3</sup> Subs by Maharashtra Act II of 1960.  
<sup>4</sup> Ins by Maharashtra Act II of 1969.

matters referred to in sub-section (1-AA), may make, alter or rescind rules or orders not inconsistent with this Act, in areas under this respective charges or any part thereof, namely”-

(b) after sub-section (1), the following sub-section shall be inserted, namely :-

“(I-AA) A District Superintendent may, in areas under his charge or any part thereof, make, alter or rescind rules or orders not inconsistent with this Act with respect to all or any of the matters specified in clauses (d), (db), (e) and (g) read with clause (y) of sub-section (1) :

Provided that the rules and orders made by a District Magistrate under sub-section (1) for any of the matters specified in the said clauses and in force in any area immediately before the commencement of the Bombay Police (Gujarat Amendment) Act, 1977 (Gujarat 16 of 1978) shall continue in force therein as if made by the District Superintendent under this sub-section, until altered or repealed or amended by a competent authority”;

(c) in sub section (6), in the proviso, for the words “the Commissioner or the District Magistrate”, the words “the commissioner, the District Magistrate, or as the case may be, the District Superintendent”, shall be substituted.<sup>1</sup>

In Section 33 in sub-section (1), in the proviso, omit “or that Act as in force in the Saurashtra area or the Kutch area of the State of Bombay, the Abkari Act, the Hyderabad Intoxicating Drugs Act, the Central Provinces and Berar Excise Act, 1915 or the Central Provinces and Berar Prohibition Act, 1938”.<sup>2</sup>

In section 33 in sub-section (1), after clause (a) the following clauses shall be inserted, namely:

“(aa) licensing and controlling persons offering themselves for employment at hills, mountains or such other places for carrying pilgrims, tourists or other passengers and their baggages or goods on such bills, mountains or places, and fixing and providing for the enforcement of a scale of charges for the labour of such persons so employed”.<sup>3</sup>

In section 33 in sub-section (1), in clause (da) for the words “upon a vessel” the words “in, or in the vicinity of, a street or any public place or upon a vessel” shall be substituted and the following proviso shall be added, namely :

“Provided that nothing in this clause shall apply to the display of any news-board or public notice by or on behalf of a political party, a public institution or a panchayat or municipality or municipal corporation or other local authority constituted under any law for the time being in force.”<sup>4</sup>

In sub section (1-A), for “area of the pre-Reorganisation State of Bombay, excluding the transferred territories” substitute “State of Gujarat”.<sup>5</sup>

In sub-section (2), in clause (i), for the brackets and letters “(a), (b)” the brackets and letters “(a), (aa), (b)” shall be substituted.<sup>6</sup>

<sup>1</sup> Vide Gujarat Act 16 of 1978. Sec. 9, w.e. f. 3-3-1978.

<sup>2</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>3</sup> Vide Gujarat Act 30 of 1962, Sec. 2, w.e.f. 30th August, 1962.

<sup>4</sup> Vide Gujarat Act 4 of 1964, Sec. 2, w.e.f. 26th January, 1964.

<sup>5</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>6</sup> Vide Gujarat Act 30 of 1962, Sec. 2, (w.e.f. 30th August, 1962.)



In sub-section (4), omit “if made in relation to any area outside Greater Bombay”.<sup>1</sup>

In Sec. 33. in sub-section (4), for the words “the Revenue Commissioner” the words “such authority as the State Government may appoint in this behalf” shall be substituted.<sup>2</sup>

34. **Competent authority may authorise erection of barriers on streets.** The Commissioner and the District Superintendent in areas under their respective charges may, whenever in his opinion such action is necessary, authorise such Police officer as he thinks fit to erect barriers on any street for the purpose of stopping temporarily vehicles driven on such street and satisfy himself that the provisions of any law for the time being in force have not been contravened in respect of any such vehicle or by the driver of or the person in charge of such vehicle. The said authority may also make such orders as it deems fit for regulating the use of such barriers.

35. **Power to make rules prohibiting disposal of the dead except at places set apart.** (1) A competent authority may from time to time, make rules prohibiting the disposal of the dead, whether by cremation, burial or otherwise at places other than those set apart for such purpose:

Provided that no such rules shall be made in respect of any such town or place in which places have not been so set apart:

Provided further that the competent authority or any officer authorized by it in this behalf may, in its or his discretion on an application made to it or him by any person, grant to such person permission to dispose of the corpse of any deceased person at any place other than a place so set apart, if in its or his opinion such disposal is not likely to cause obstruction to traffic or disturbance of the public peace or is not objectionable for any other reason.

(2) Any rules made under sub-section (1) shall specify the places set apart for the disposal of the dead of different communities or sections of communities.

(3) All such rules shall be subject to the condition of previous publication and the date to be specified under Cl. (c) or Sec. 24 of the Bombay General Clauses Act, 1904 (Bom. I of 1904), shall not be earlier than two months from the date on which the draft of the proposed rules is published.

*Explanation.* For the purposes of this section, a place set apart for the disposal of the dead means a place set apart for such purpose under any custom, usage or law for the time being in force.

36. **Power of Commissioner or the District Superintendent and of other officers to give direction to the public.** In areas under their respective charges the Commissioner, and subject to his orders every Police officer not inferior in rank to an Inspector, and the District Superintendent and subject to his orders any Police officer of not lower than such rank as may be specified by the State Government in that behalf, may, from time to time as occasion may arise, but not so as to contravene any rule or order under Sec. 33 give all such orders either orally or in writing as may be necessary to-

(a) direct the conduct of, and behaviour or action of persons constituting processions or assemblies on or along the streets;

(b) prescribe the routes by which and the times at which any such processions may or may not pass;

<sup>1</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>2</sup> Vide Gujarat Act 15 of 1964, Sec. 4 and Sch.

- (c) prevent obstructions on the occasion of all processions and assemblies and in the neighbourhood of all places of worship during the time of worship and in all cases when any street or public place or place of public resort may be thronged or liable to be obstructed;
- (d) keep order on and in all streets, quays, wharves, and at and within public bathing, washing and landing places, fairs, temples and all other places of public resort;
- (e) regulate and control the playing of music or singing, or the beating of drums, tom-toms and other instruments and the blowing or sounding of horns or other noisy instruments, in or near any street or public place;
- <sup>1</sup>[(ea) regulate and control the use of loudspeakers in or near any public place or in any place of public entertainment,]
- (f) make reasonable orders subordinate to and in furtherance of any order made by a competent authority under Secs. 33, 35, 37 to 40, 42, 43 and 45 of this Act.

37. ***Power to prohibit certain for prevention of disorder.*** (1) The Commissioner and the District Magistrate in areas under their respective charges, may whenever and for such time as he shall consider necessary for the preservation of public peace or public safety by a notification publicly promulgated or addressed to individuals, prohibit at any town, village or place or in the vicinity of any such town, village or place-

- (a) the carrying of arms, cudgels, swords, spears, bludgeons, guns, knives, sticks or lathis, or any other article, which is capable of being used for causing physical violence;
  - (b) the carrying of any corrosive substance or of explosives;
  - (c) the carrying, collection and preparation of stones or other missiles or instruments or means of a casting or impelling missiles;
  - (d) the exhibition of persons or corpses of figures or effigies thereof;
  - (e) the public utterance of cries, singing of songs, playing of music;
  - (f) delivery of harangues, the use of gestures or mimetic representations, and the preparation, exhibition or dissemination of pictures, symbols, placards or any other object or thing which may in the opinion of such authority offend against decency of morality or undermine the security of or tend to overthrow the State.
- (2) If any person goes armed with any such article or carries any corrosive substance or explosive or missile in contravention of such prohibition, he shall be liable to be disarmed or the corrosive substance or explosive missile shall be liable to be seized from him by any Police officer, and the article, corrosive substance, explosive or missile so seized shall be forfeited to the State Government.
- (3) The authority empowered under sub-section (1) may also by order in writing prohibit any assembly or procession whenever and for so long as it considers such prohibition to be necessary for the preservation of the public order:

Provided that no such prohibition shall remain in force for more than fifteen days without the sanction of the State Government.

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<sup>1</sup> Clause (ea) was inserted by Bom 28 of 1954, Sec. 8.

- (4) The authority empowered under sub-section (1) may also by public notice temporarily reserve for any public purpose any sheet or public place and prohibit persons from entering the area so reserved, except under such conditions as may be prescribed by such authority.

### **Gujarat Amendment:**

In Sec. 37 in sub-section (1), after clause (C), the following clause shall be inserted, namely:

“(cc) the carrying of burning or lighted torches in a procession”;<sup>1</sup>

In sub section (2), at each of the places where the words ‘corrosive substance or explosive or missile’ and the words “corrosive substance, explosive or missile” occur, the words “corrosive substance, explosive, missile, instrument, means of burning or lighted torch” shall be substituted.<sup>2</sup>

**38. Power to prohibit, etc. continuance of music, sound or noise.** (1) If the Commissioner or District superintendent is satisfied from the report of an officer in charge of a Police Station or other information received by him that it is necessary to do so in order to prevent annoyance, disturbance, discomfort or injury or risk or annoyance, disturbance, discomfort or injury to the public or to any persons who dwell or occupy property in the vicinity, he may, by a written order issue such directions as he may consider necessary to any person for preventing, prohibiting, controlling or regulating-

- (a) the incidence or continuance in or upon any premises of-
    - (i) any vocal or instrumental music,
    - (ii) sounds caused by the playing, beating, clashing, blowing or use in any manner whatsoever of any instrument, appliance or apparatus or contrivance which is capable of <sup>3</sup>[producing or reproducing sound], or
  - (b) the carrying on, in or upon, any premises or any trade, avocation or operation resulting in or attended with noise.
- (2) The authority empowered under sub-section (1) may, either on its own motion or on the application of any person aggrieved by an order made under sub-section (1), either rescind, modify or alter any such order:

Provided that before any such application is disposed of, the said authority shall afford to the applicant an opportunity of appearing before it either in person or by pleader and showing cause against the order and shall, if it rejects any such application either wholly or in part, record its reasons for such rejection.

**39. Issue of orders for prevention of riot, etc.** (1) In order to prevent or suppress any riot or grave disturbance of peace, the Commissioner and the Superintendent, in areas under their respective charges, may temporarily close or take possession of any building or place, and may exclude all or any persons therefrom, or may allow access hereto to such persons only and on such terms as he shall deem expedient. All persons concerned shall be bound to conduct themselves in accordance with such orders as the authority making orders may make and notify in exercise of, he authority hereby vested in it.

(2) **Compensation to lawful occupier of building or place closed or taken possession of.** If the

<sup>1</sup> Vide Gujarat Act 26 of 1972, Sec. 2, w.e.f. 6th December, 1972.

<sup>2</sup> Vide Gujarat Act 26 of 1972, Sec. 2, (w.e.f. 6th December, 1972).

<sup>3</sup> These words were substituted for the original words “producing sound” by Bom Act 28 of 1954, Sec. 9.

lawful occupier of such building or place suffers substantial loss or injury by reason of the action taken under sub-section (1) he shall be entitled, on application made to the authority concerned within one month from the date of such action, to receive reasonable compensation for such loss or injury, unless such action was in the opinion of such authority rendered necessary either by the use to which such building or place was put or intended to be put or by the misconduct of persons having access thereto.

(3) **Disputes as to compensation to be settled.** In the event of any dispute in any case under sub-section (2) the decision of the Chief Presidency Magistrate or the District Magistrate, shall be conclusive as to the amount (if any) to be paid, and as to the person to whom it is to be paid.

### **Gujarat Amendment:**

In Sec. 39 in sub section (3), for “Chief Presidency Magistrate or the District Magistrate, as the case may be”, substitute “District Magistrate”.<sup>1</sup>

40. **Issue of orders for maintenance of order at religious ceremonies, etc.** (1) In any case of an actual or intended religious or ceremonial or corporate display or exhibition or organised assemblage in any street or public place, as to which or the conduct of or participation in which it shall appear to a competent authority that a dispute or contention exists which is likely to lead to grave disturbance of the peace, such authority may give such orders as to the conduct of the persons concerned towards each other and towards the public as it shall deem necessary and reasonable under the circumstances, regard being had to the apparent legal rights and to any established practice of the parties and of the persons interested. Every such order shall be published in the town or place wherein it is to operate, and all persons concerned shall be bound to conform to the same.
- (2) Any order under sub-section (1) shall be subject to a decree, injunction or order made by a court having jurisdiction and, shall be recalled or altered on its being made to appear to the authority making the order that such order is inconsistent with a judgment, decree, injunction or order of such court, on the complaint, suit or an application of any person interested, as to the rights and duties of any persons affected by the order aforesaid.
41. **Police to provide against disorder, etc. at places of amusement and public meetings.** (1) For the purpose of preventing serious disorder or breach of the law or manifest and imminent danger to the persons assembled at any public place of amusement or at an assembly or meeting to which the public are invited or which is open to the public, the senior Police officer of highest rank superior to that of constable, present at such place of amusement or such assembly or meeting may, subject to such rules and orders as may have been lawfully made, give such reasonable directions as to the mode of admission of the public to, and for securing the peaceful and lawful conduct of the proceedings and the maintenance of the public safety at such place of amusement or such assembly or meeting, as he thinks necessary and all persons shall be bound to conform to every such reasonable direction.
- (2) Police to have free access thereto- The Police shall have free access to every such place of amusement, assembly or meeting, for the purpose of giving effect to the provisions of sub-section (1) and to any direction made thereunder.

<sup>2</sup>[\* \* \* \* \*]

<sup>1</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>2</sup> Section 42 of the Act has been deleted, vide Maharashtra Act 28 of 1964.

43. ***District Magistrate may take special measures to prevent outbreak of epidemic disease at fair, etc.***

(1) Whenever it shall appear to the Commissioner or District Magistrate that any place in the areas under their respective charges, at which, on account of a pilgrimage, fair or other such occurrence, large bodies of persons have assembled or are likely to assemble is visited or will probably be visited with an outbreak of any epidemic disease, he may take such special measures and may by public notice prescribe such regulations to be observed by the residents of the said place and by persons present thereat or repairing thereto or returning therefrom as he shall deem necessary to prevent the outbreak of such disease or they spread thereof.

(2) It shall be lawful for the District Magistrate or for the Collector or the Chief Presidency Magistrate on the requisition of the Commissioner or the District Magistrate to assess and levy such reasonable fees on persons falling under the provisions of sub-section (1) as will provide for the expenses of the arrangements for sanitation and the preservation of order at and about the place of assemblage.

(3) When the place of assemblage is within the limits of a municipality or corporation such sums as shall be necessary for the purposes aforesaid may be recovered from the municipality or corporation.

**Gujarat Amendment:**

In the principal Act, Sec. 42 shall be deleted.<sup>1</sup>

In Sec. 43 in sub-section (2), omit "or the Chief Presidency Magistrate".<sup>2</sup>

44. ***Destruction of stray dogs.*** (1) The Commissioner and the District Superintendent in areas under their respective charges, may, from time to time, by public notice, proclaim that any stray dogs found, during such period as may be specified in the said notice, wandering in the streets or in any public place may be destroyed, and any dog so found within such period may be destroyed accordingly.

(2) The authority empowered under sub-section (1) may by public notice require that every dog, while in any street or public place and not led by some persons, shall be muzzled in such a manner as effectually to prevent it from biting, while not obstructing its breathing or drinking, and the Police may, so long as such notice remains in force, destroy, or take possession of and detain, any dog found loose without muzzle in any street or place beyond the premises of the owner thereof:

Provided that any dog so found, wearing a collar on which an apparently genuine name and address of an owner is inscribed, shall not, unless it is rabid, be forthwith destroyed, but information of the detention thereof shall forthwith be sent by post or otherwise to such owner.

(3) Any dog which has been detained under sub-section (2) for a period of three clear days without the owner providing a muzzle and paying all expenses connected with such detention may be destroyed or sold with the sanction and under the orders of the competent authority.

(4) The proceeds of the sale of any dog under sub-section (3) shall be applied, as far as may be, in discharge of the expenses incurred in connection with its detention, and the balance, if any, shall form part of the consolidated fund of the State.

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<sup>1</sup> Vide Gujarat Act J 6 of 1978, Sec. 10, w. e.f., 3.3-1978.

<sup>2</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects, Order, 1960.

(5) Any expenses incurred in connection with the destruction or detention of any dog under this section shall, subject to the provisions of sub-section (4), be recoverable from the owner thereof upon a warrant issued by the competent authority as if it were a warrant under Sec. 386 of the Code of Criminal Procedure, 1898 (V of 1898).

45. ***Destruction of suffering or unfit animals.*** (1) Any Police officer who in any street or public place other than a place of worship, finds any animal other than a bull or a cow so diseased, or so severely injured, and in such a physical condition, that in his opinion it cannot without cruelty be removed, shall, if the owner is absent or refuses to consent to the destruction of the animal at once summon the Veterinary Practitioner in charge of the area in which the animal is found and, if the Veterinary Practitioner certifies that the animal is mortally injured, or so severely injured, or so diseased, or in such a physical condition, that it is cruel to keep it alive, the Police officer may, without the consent of the owner, destroy the animal or cause it to be destroyed:

Provided that if in the opinion of the Veterinary Practitioner the animal can be removed from the place where it is found without causing it great suffering, and, if the owner or person in charge of the animal or in their absence any other person on the spot is willing and offers to remove the animal to a veterinary Hospital or Pinjrapole within such time as the Veterinary Practitioner considers reasonable, the Veterinary Practitioner shall allow the animal to be removed by such owner, person in charge of the animal or other person. If the owner or person in charge of the animal or such other person is unwilling or fails so to remove the animal, the Veterinary Practitioner may direct the Police officer to remove the animal before it is destroyed from the place where it is found to such other place as he may think fit ;

Provided further that when the animal is destroyed in any street or public place it shall, as far as possible, be screened from the public gaze while it is being destroyed.

(2) The State Government may appoint such persons as it thinks fit to be Veterinary Practitioners and may declare the areas of which they shall be in charge for the purposes of this Act.

46. ***Powers under this Chapter to be exercised by District Superintendent subject to the control of District Magistrate and Commissioner and by District Magistrates subject to the control of State Government.*** Every power conferred by this Chapter on a District Superintendent not specially empowered by the State Government to exercise that power or on any officer subordinate to him shall be exercised by him subject to the orders of the District Magistrate and all rules, regulations and orders made under this Chapter shall, if made by the <sup>1</sup>[Revenue Commissioner] be governed by such rules and orders as the State Government may, from time to time, make in this behalf and, if made by the District Magistrate or the District Superintendent specially empowered in that behalf, shall be subject to the provisions of Sec. 17.

## CHAPTER V

### **Special measures for maintenance of public order and safety of State**

I. *Employment of additional Police, recovery of cost thereof and of riot compensation-its assessment and recovery.*

47. ***Employment of additional Police on application of a person.*** (1) The Commissioner or District Superintendent may, on the application of any person, depute any additional number of Police to keep the peace, to preserve order or to enforce any of the provisions of this or any other Act in respect of

<sup>1</sup> Subs by Maharashtra Act 11 of 1960.

any particular class or classes of offences or to perform any other Police duties at any place in the area under his charge.

(2) Such additional Police shall be employed at the cost of the person making the application, but shall be subject to the orders of the Police authorities and shall be employed for such period as the appointing authority thinks fit.

(3) If the person upon whose application such additional Police are employed shall at any time make a written requisition to the appointing authority to which the application for the employment of additional Police was made, for the withdrawal of the said Police, he shall be relieved for the cost thereof at the expiration of such period not exceeding one month from the date of the delivery of such requisition, as the State Government or the appointing authority, as the case may be, shall determine.

**48. *Employment of additional police at large works and when apprehension regarding behaviour of employees exists.*** (1) Whenever it appears to the State Government or a competent authority that-

(a) any large work which is being carried on or any public amusement which is being conducted is likely to impede the traffic or to attract a large number of people, or

(b) that the behaviour or a reasonable apprehension of the behaviour, of the persons employed on any railway, canal or other public work, or in or upon any manufactory or other commercial concern under construction or in operation at any place, necessitates the employment of additional police at such place, the State Government or the competent authority may depute such additional Police to the said place as it shall think fit and keep the said Police employed at such place for so long as such necessity shall appear to it to continue.

(2) Such additional Police shall be employed at the cost of the person by whom the work, amusement, manufactory or concern is being constructed, conducted or carried on and the said person shall pay the costs therefore at such rates as the State Government or the competent authority, as the case may be, shall from time to time require.

**49. *Recovery of cost of additional police employed under Secs. 47 and 48.*** In case of any dispute under Sec. 47 or 48 the decision of Chief Presidency Magistrate in Greater Bombay and the District Magistrate, in the district shall be conclusive as to the amount to be paid and as to the person by whom it is to be paid and the sum, so ascertained may, on the requisition of the Chief Presidency Magistrate or the District Magistrate, be recovered by the Collector as if it were an arrear of land revenue due by the person found to be answerable therefore.

#### **Gujarat Amendment:**

In Sec 49, omit "the Chief Presidency Magistrate in Greater Bombay and", "in the district", and "the Chief Presidency Magistrate or".<sup>1</sup>

**50. *Employment of additional police in cases of special danger public peace.*** (1) If in the opinion of the State Government any area is in a disturbed or dangerous condition or in which the conduct of the inhabitants or of any particular section of the inhabitants renders it expedient temporarily to employ additional Police, it may by notification in the official Gazette specify-

<sup>1</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

- (a) the area (hereinafter called “the disturbance area”) in which the additional Police is to be employed;
- (b) the period for which the additional Police is to be employed ;

Provided that the period fixed under Cl. (b) may be extended by the State Government from time to time, if in its opinion it is necessary to do so in the general interest of the public. The cost of the additional Police shall be a tax imposed under this section and shall be recovered in the manner prescribed in the succeeding sub-sections.

- (2) The decision of the State Government under Cls. (a) and (b) of sub. section (1) shall be final.
- (3) On the issue of such notification. the State Government may require,-
  - (a) in any disturbance area which is within the limits of a Corporation, the Municipal Commissioner, the Collector or any other authority ;
  - (b) in any disturbance area which is within the limits of a municipality, the municipality, the Collector or any other authority;
  - (c) in any disturbance area which is outside the areas specified in Cls. (a) and (b), the Collector or any other authority,

to recover, whether in whole or in part, the cost of such additional Police generally from all persons who are inhabitants of the disturbance area or specially from any particular section or sections, or class or classes to such persons, and in such proportion as the State Government may direct:

Provided that where the Municipal Commissioner or the Municipality is directed to recover such cost, an additional sum not exceeding 3 per cent of the amount of such cost shall also be recoverable.

- (4) (i) The State Government may require the Municipal Commissioner or the Municipality to recover such cost and the additional sum by an addition to the general or property tax which shall be imposed and levied in all or such of the municipal wards, sub-wards or sections thereof, as the State Government may direct. Every addition to the general or property tax imposed under this sub-section shall be recovered by the Municipal Commissioner or the Municipality from each person liable therefore in the same manner as the general or property tax due from him. The provisions of the relevant Municipal Act shall apply to any such addition as if it were part of the general or property tax levied under the said act. Such addition shall be a charge along with the general or property tax, on the properties, in such Municipal wards or sub-wards or sections.
  - (ii) The State Government may also require the Municipal Commissioner or the Municipality to recover such cost and the additional sum from each person liable therefor under sub-section (3) in such manner as the State Government may direct.
  - (iii) Where the Municipal Commissioner or a Municipality makes default in imposing and levying any such tax or in making such recovery, the State Government may direct the Collector to impose and levy such tax or to make such recovery.
- (5) Every amount recoverable by the Collector or other authority under this section shall be recoverable as if it were an arrear of land revenue due by the person liable therefor.
  - (6) It shall be lawful for the State Government by order to exempt any person from liability to bear any portion of the cost of such additional Police.



- (7) Out of the total amount recovered by the Municipal Commissioner or by a Municipality under sub-section (4) or (5) whether before or after the coming into operation of this Act the amount of the cost shall be paid to the State Government and the balance, if any, shall be credited to the municipal fund constituted under the relevant Municipal Act. Such amount of cost shall be paid to the State Government every three months.

*Explanation.-* In this section the expression “inhabitants” when used with reference to any area includes persons who themselves by their agents or servants occupy or hold land or other immovable property within such area and landlords who themselves or by their agents or servants collect rent from holders or occupiers of land in such area notwithstanding that they do not actually reside therein.

51. ***Compensation for injury caused by unlawful assembly, how recover able-Date to be fixed for liability.*** (1) When any loss or damage is caused to any property or when death results or grievous hurt is caused to any person or persons, by anything done in the prosecution of the common object of an unlawful assembly, the State Government may, by notification in the official Gazette, specify-
- (a) the area (hereinafter called “the disturbance area”), in which in its opinion such unlawful assembly was held;
  - (b) the date on which or the period during which such unlawful assembly was held.

The decision of the State Government under Cls. (a) and (b) of sub-section (1) shall be final.

- (3) On the issue of a notification under sub-section (1), the Chief Presidency Magistrate in Greater Bombay the District Magistrate in Districts <sup>1</sup>[with the previous sanction of the Revenue Commissioner], may, after such inquiries he deems necessary, determine the amount of the compensation which, in his opinion, should be paid to any person or persons in respect of the loss or damage or death or grievous hurt aforesaid. The amount of compensation shall be a tax imposed under this section and shall be (covered in the manner prescribed in the succeeding sub-sections.
- (4) The Chief Presidency Magistrate or the District Magistrate may require-
- (a) in any disturbance area which is within the limits of a Corporation, the Municipal Commissioner, the Collector or another authority;
  - (b) in any disturbance area which is within the limits of a municipality, the municipality, the Collector or any other authority; and
  - (c) in any disturbance area which is outside the area specified in Cls. (a) and (b), the Collector or any other authority. .

to recover the amount (hereinafter called “the compensation amount”) as determined under sub-section (3) either in whole or in part and where the Municipal Commissioner or the Municipality is required to recover such amount. an additional sum not exceeding three per cent of the compensation amount (hereinafter referred to as “the Municipal recovery cost”), generally from all persons who were inhabitants of the disturbance area or specially from any particular section or sections, or class or classes of such persons in the said area, and in such proportion as the Chief Presidency Magistrate or the District Magistrate may direct.

- (5) (1) The Chief Presidency Magistrate or the District Magistrate may require the Municipal Commissioner or the Municipality concerned to recover the compensation amount and the

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<sup>1</sup> These words were Ins by Bom Act 8 of 1958, Sec 3 and Sch.

Municipal recovery cost by an addition to the general or property tax which shall be imposed and levied in the disturbance area. Every addition to the general or property tax imposed under this sub section shall be recovered by the Municipal Commissioner or the Municipality concerned from each person liable therefor in the same manner as the general or property tax due from him. The provisions of the relevant Municipal Act shall apply to any such addition as if it were part of the general or property tax levied under the relevant Municipal Act. Such addition shall be charged along with the general or property tax on the properties in the area aforesaid.

- (ii) The Chief Presidency Magistrate or the District Magistrate as the case may be, may also require the Municipal Commissioner or the Municipality concerned to recover the compensation amount and the municipal recovery cost from each person liable therefor under sub-section (4) in such manner as he may direct.
- (6) Where a Municipal Commissioner or a Municipality makes a default in imposing and levying any such tax or in making any such recovery, the State Government may direct the Collector to impose and levy such tax or to make such recovery.
- (7) Every amount recoverable by the Collector or other authority under this section shall be recoverable as if it were an arrear of land revenue due by the person liable therefor.
- (8) Out of the total amount recovered by the Municipal Commissioner or by a Municipality under sub-section (5) or (7), whether before or after the coming into operation of this Act, the proportionate amount of the municipal recovery cost shall be deducted therefrom and the amount not exceeding the compensation amount determined by the Chief Presidency Magistrate or the District Magistrate as the case may be under sub-section (3) shall be paid to him for the payment of compensation to the persons entitled thereto and the balance, if any, shall be credited to the Municipal fund constituted under the relevant Municipal Act. Such amount shall be paid to the Chief Presidency Magistrate or the District Magistrate as the case may be every three months.
- (9) It shall be lawful for the Chief Presidency Magistrate or the District Magistrate as the case may be by order, to exempt any persons from liability to pay any portion of the compensation amount. .
- (10) The State Government may, (a) on its own motion, or (b) on an application made by a person within a period of thirty days from the date of the order of the Chief Presidency Magistrate or the District Magistrate as the case may be granting or refusing to grant an exemption thereunder, set aside or modify such order.

*Explanation.* In this section the expression “inhabitants” when used with reference to any disturbance area includes persons who themselves or by their agents or servants occupy or hold land or other immovable property within such area and landlords who themselves or by their agents or servants collect rent from holders or occupiers of land in such area, notwithstanding that they do not actually reside therein.

#### **Gujarat Amendment:**

In Sec. 51, in sub-section (3), for the words “Revenue Commissioner” the words “State

Government” shall be substituted.<sup>1</sup>

In Sec. 51 in sub-section (3) omit “the Chief Presidency Magistrate in Greater Bombay, and” and “in Districts”.

In sub-section (4), for “the Chief Presidency Magistrate or the District Magistrate, as the case may be” substitute “the District Magistrate”.

In sub-section (4) omit “the Chief Presidency Magistrate or”.

In sub-section (5) in Cls. (i) and (ii) for “the Chief Presidency Magistrate or the District Magistrate, as the case may be” substitute “the District Magistrate”.

In sub-sections (8), (9) and (10) for “the Chief Presidency Magistrate or the District Magistrate, as the case may be”, substitute “the District Magistrate”.<sup>2</sup>

**52. Chief Presidency Magistrate or District Magistrate to award or apportion compensation.** (1) It shall be lawful for the District Magistrate<sup>3</sup> [with the previous sanction of the Revenue Commissioner] to award or apportion all or any moneys recovered as compensation amount under sub-sections (3) to (8) of sec. 51 to any person or among all or any persons whom he considers entitled to compensation in respect of the loss or damage or death or grievous bun aforesaid.

(2) No compensation shall be awarded under this section except upon a claim made within 45 days from the date of notification issued by the State Government under sub-section (1) of Sec. 51 and unless Chief Presidency Magistrate or the District Magistrate is satisfied that the person claiming compensation or where such claim is made in respect of the death of any person, that that person also has himself been free from blame in connection with the occurrences which led to the loss, damage, death or grievous hurt as aforesaid.

(3) The compensation payable to any person under Sec. 51 in respect of death or grievous hurt shall not in any way be capable of being assigned or charged or be liable to attachment or to pass to any person other than the person entitled to it by operation of law, nor shall any claim be set off against the same.

(4) Every direction and order made by Chief Presidency Magistrate or the District Magistrate under this or the preceding section shall be subject to revision by the State Government, but save as aforesaid, shall be final.

(5) No civil suit shall be maintainable in respect of any loss or injury for which compensation has been granted under this section.

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<sup>1</sup> Vide Gujarat Act 15 of 1964, Sec 4 and Sch.

<sup>2</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>3</sup> These words were inserted by Bombay 8 of 1958, Sec 3, Schedule.

### **Gujarat Amendment:**

In Sec 52, in sub-section (1) for the words “Revenue Commissioner” the words “State Government” shall be substituted.<sup>1</sup>

In Sec. 52 in sub-sections (1), (2) and (4), for “the Chief Presidency Magistrate or the District Magistrate, as the case may be” substitute “the District Magistrate” and in the marginal note, omit “Chief Presidency Magistrate or”.<sup>2</sup>

53. ***Chief Presidency Magistrate or District Magistrate to discharge, functions under order of State Government.*** Chief Presidency Magistrate or the District Magistrate as the case may be, shall discharge his functions under Secs. 51 and 52 subject to any general or special orders of the State Government in this behalf.

### **Gujarat Amendment:**

In Sec. 53 for “the Chief Presidency Magistrate or the District Magistrate, as the case may be” substitute “the District Magistrate” and in the marginal note omit “Chief Presidency Magistrate or”.<sup>3</sup>

54. ***Proportionate recovery of the cost of additional police and compensation for loss caused by unlawful assembly.*** (1) Notwithstanding anything contained in the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (Bom LVII of 1947),<sup>4</sup> [or any law corresponding thereto in force in any area of the State of Bombay], where under the provisions of Sec. 50 or 51, the Municipal Commissioner, the Municipality or the Collector, as the case may be, is required to recover the cost of the additional police including the additional sum referred to in sub-section (3) of Sec. 50 (hereinafter called “the additional cost”) or the compensation amount and the municipal recovery cost (hereinafter called “the riot tax”) by an addition to the general or property tax, the landlord from whom any portion of the additional cost or the riot tax is recovered, in respect of any premises shall be entitled to recover 75 per cent, of such portion from the tenant in the occupation of the premises during the period fixed under sub-section (1) of Sec. 50 or on the date or during the greater part of the period specified under Cl. (b) of sub-section (1) of Sec. 51, as the case may be, in the manner specified in sub-section (2).

(2) The amount referred to in sub-section (1) and to be recovered from a tenant referred to therein, shall bear the same proportion as the rent payable by him in respect of the premises in his occupation bears to the total amount of rent recoverable for the whole premises if let, and the same shall be recoverable from the tenant in not less than four equal instalments.

(3) The provisions of sub-section (1) in so far as they relate to the recovery of the riot tax from the tenants shall not apply to Greater Bombay during the period during which Sec 10-B of the Bombay Rents Hotel and Lodging House Rates Control Act, 1947 is in force in the said area.

### **Gujarat Amendment:**

<sup>1</sup> Vide Gujarat Act 15 of 1964, Sec. 4 and Sch.

<sup>2</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>3</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>4</sup> These words were inserted by Bom 34 of 1959, Sec 18.

In Sec. 54 omit sub-section (3).<sup>1</sup>

II. Dispersal of the Gangs and Removal of Persons convicted of certain offences <sup>2</sup>[and of certain beggars]

**55. Dispersal of gangs and body of persons.** Whenever it shall appear in Greater Bombay and in areas in which a Commissioner is appointed under Sec. 7 to the Commissioner and in a district to the District Magistrate the Sub-Divisional Magistrate or the District Superintendent specially empowered by the State Government in that behalf, that the movement or encampment of any gang or body of persons in the area in his charge is causing or is calculated to cause danger or alarm or reasonable suspicion that unlawful designs are entertained by such gang or body or by members thereof, such officer may, by notification addressed to the persons appearing to be the leaders or chief men of such gang or body and published by beat of drum or otherwise as such officer thinks fit, direct the members of such gang or body so to conduct themselves as shall seem necessary in order to prevent violence and alarm, or disperse and each of them to remove himself outside the area within the local limits of his jurisdiction <sup>3</sup>[or such area and any district, or districts or any part thereof, contiguous thereto] which in such time as such officer shall prescribe, and not to enter the area <sup>4</sup>[or the area and such contiguous districts, or part thereof, as the case may be], or return to the place from which each of them was directed to remove himself.

#### **Gujarat Amendment:**

In Sec. 55, omit "Greater Bombay and in other".<sup>5</sup>

**56. Removal of persons about to commit offence.** Whenever it shall appear in Greater Bombay and other areas for which a Commissioner has been appointed under Sec. 7 to the Commissioner and in other area or areas to which State Government may, by notification in the Official Gazette, extend the provisions of this section, to the District Magistrate, or the sub. Divisional Magistrate specially empowered by the State Government in that behalf-

- (a) that the movements or acts of any person are causing or calculated to cause alarm, danger or harm to person or property, or
- (b) that there are reasonable grounds for believing that such person is engaged or is about to be engaged in the commission of an offence involving force or violence or an offence punishable under Chapters XII, XVI, or XVII of the Indian Penal Code (XLV of 1860), or in the abetment of any such offence, and when in the opinion of such officer witnesses are not willing to come forward to give evidence in public against such person by reason of apprehension on their part as regards the safety of their person or property,

<sup>6</sup>[(bb) that there are reasonable grounds for believing that such person is acting or is about to act (1) in any manner prejudicial to the maintenance of public order as defined in the Maharashtra Prevention of Communal, Antisocial and other Dangerous Activities Act, 1980, or (2) in any manner prejudicial to the maintenance of supplies of commodities essential of the community as defined in the Explanation to sub-section (1) of Sec. 3 of the Prevention of Black-marketing and

<sup>1</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>2</sup> Added by Mah Act XVI of 1976. Sec 4 and Sch.

<sup>3</sup> These words were inserted by Born 1 of 1956, Sec 3 (1).

<sup>4</sup> These words were inserted, *ibid*, Sec 3 (2).

<sup>5</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>6</sup> Ins by Mah Act VII of 1981, Sec 17.

Maintenance of Supplies of Essential Commodities Act, 1980 (VII of 1980), or

- (c) that an outbreak of epidemic disease is likely to result from the continued residence of an immigrant, the said officer may, by an order in writing duly served on him or by beat of drum or other wise as he thinks fit, direct such person or immigrant so to conduct himself as shall seem necessary in order to prevent violence and alarm <sup>1</sup>[or such prejudicial act] or the outbreak or spread of such disease or to remove himself outside the area within the local limits of his jurisdiction <sup>2</sup>[or such area and any district or districts, or any part thereof, contiguous thereto] by such route and within such time as the said officer may prescribe and not to enter or return to the said area <sup>3</sup>[or the area and such contiguous districts, or part thereof as the case may be] from which he was directed to remove himself.

### Gujarat Amendment:

In Sec. 56, omit "Greater Bombay and other".<sup>4</sup>

In the principal Act, in Sec. 56, the word "specially" shall be deleted.<sup>5</sup>

<sup>6</sup>[57. **Removal of persons convicted of certain offences.** If a person has been convicted -

- (a) (i) of an offence under Chapters XII, XVI or XVII of the Indian Penal Code (XLV of 1860), or  
(ii) of any offence under Secs. 65, 66-A or 68 of the Bombay Prohibition Act, 1949 (Bom. XLV of 1949), or  
(iii) of an offence under Secs. 3, 4, 5, 6 or 9 of the Suppression of Immoral Traffic in Women and Girls Act, 1956 (CIV of 1956), or  
(iv) of an offence under Sec. 135 of the Customs Act, 1962 (52 of 1962), or  
(v) of an offence under Sec. 4, or for accepting bets in any public street or thoroughfare or in any place to which the public have or permitted to have access or in any race course under Cl. (a) of Sec. 12, or under Sec 12-A of the Bombay Prevention of Gambling Act, 1867 (Bom. IV of 1867), or
- (b) twice or more of an offence under the Bombay Prohibition Act, 1949 (Born XXV of 1949) not being an offence under Secs. 66, 66-A or 68, or
- (c) twice or more of an offence under Sec- 122 or 124 of this Act, the Commissioner, the District Magistrate, or the Sub Divisional Magistrate specially empowered by the State Government in this behalf, if he has reason to believe that such person is likely again to engage himself in the commission of an offence similar to that for which he was convicted, may direct such person to remove himself outside the area within the local limits of his jurisdiction or such area and any district or districts, or any part thereof, contiguous thereto by such route and within such time as the said officer may prescribe and not to enter or return to the area or the areas and such contiguous district or districts or part thereof, as the case may be, from which he was directed to remove himself.

<sup>1</sup> These words were inserted by Bom 1 of 1956, Sec. 4 (1).

<sup>2</sup> Ins by Mah Act VII of 1981, See 171 wd 27.8-80).

<sup>3</sup> These words were inserted by Bom 1 of 1956, Sec. 4 (2).

<sup>4</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>5</sup> Vide Gujarat Act 16 of 1978, Sec II (wef 3-3-1978).

<sup>6</sup> Subs by Mah Act No XXIX of 1910.

**Explanation.** For the Purpose of this section “an offence similar to that for which a person was convicted” ,shall mean-

- (i) in the case of a person, convicted of an offence mentioned in Cl. (a) (i) an offence falling under any of the chapters of the Indian Penal Code (XLV of 1860), and
- (ii) in case of a person convicted of an offence mentioned in Cl. (a) [excluding sub-clause (i) thereof (b) and (c) an offence falling under the provisions of the Acts mentioned respectively in the said clauses.]

<sup>1</sup>[From the date on which the person removes himself or is removed from the area, district or districts or part aforesaid].

### **Gujarat Amendment:**

In Sec. 57, “State of Bombay” shall stand unmodified.<sup>2</sup>

In the principal Act, in Sec. 57, the word “specially” shall be deleted.<sup>3</sup>

<sup>4</sup>[57-A. **Removal of certain persons declared to be beggars.** In any area in which the Bombay Prevention of Begging Act, 1959 (Bom Act X of 1960), is in force, the Commissioner or the District Magistrate having jurisdiction in that area, on receipt of a copy of the order of the Court made under Cl. (b) of sub-section (5) of Sec. 5 of that Act, shall examine the person who has been directed to appear before him, and if the Commissioner or the District Magistrate is satisfied that such person is not likely to engage himself in the said area in any lawful profession, trade, calling or employment, such officer may by order in writing duly served on such person to remove himself outside the area or areas where the said Act is in force with in such time as may be specified in the ,order and not to enter or return to the area or areas, as the case may be, from which he was directed to remove himself:

Provided that, before serving such order on any person, the Commissioner or, as the case may be, the District Magistrate shall, in consultation with the State Government or in accordance with any general or special order issued by the State Government for this purpose, offer to such person the option of accepting an employment in any undertaking, public works or otherwise on such terms and conditions as may be specified by him in this behalf. Where such option is accepted, the fact of such acceptance shall be recorded in the externment order:

Provided further that, where the Commissioner or the District Magistrate is satisfied that such person is unfit for any work, he shall refer the case of such person to the Court, with a request that the Court may order such person to be detained in a Certified Institution as provided in Cl. (c) of sub-section (5) of Sec. 5 of the Bombay Prevention of Begging Act, 1959 (Bombay Act X of 1960).

**58. Period of operation of orders under Secs. <sup>5</sup>[55, 56, 57 and 57-A].** A direction made under Secs. 55, 56 or 57 not to enter any particular area <sup>6</sup>[or such area and any district or districts, or any part thereof contiguous thereto, as the case may be,], shall be for such period as may be specified therein

<sup>1</sup> Subs by Mah Act XXIX of 1970.

<sup>2</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>3</sup> Vide Gujarat Act 16 of 1978. Sec. 12 (wef 3-3-1978).

<sup>4</sup> Ins by Mah Act No XV of 1976, Sec. 3 (wef 13-2-1976).

<sup>5</sup> Subs by Mah Act 15 of 1976, Sec. 4 and Sch (wef 13-2-1976).

<sup>6</sup> These words were inserted by Bom Act 1 of 1956, Sec 6.

and shall in no case exceed a period of two years, <sup>1</sup>[from the date on which the person ren10ves himself or is removed from the area, district or districts or part aforesaid.]

59. **Hearing to be given before order under Secs. <sup>1</sup>[55, 56, 57 and 57-A]** is passed. (1) Before an order under Ss. <sup>1</sup>[55, 56, 57 and 57-A] is passed against any person the officer acting under any of the said sections or any officer above the rank of an Inspector authorised by that officer shall inform the person in writing of the general nature of the material allegations against him and give him a reasonable opportunity of tendering and explanation regarding them. If such person makes so application for the examination of any witness produced by him, the authority or officer concerned shall grant such application; and examine such witness, unless for reasons to be recorded in writing, the authority or officer is of opinion that such application is made for the purpose of vexation or delay. Any written statement put in by such person shall be filed with the record of the case. Such person shall be entitled to appear before the officer proceeding under this section by an advocate or attorney for the purpose of tendering his explanation and examining the witnesses produced by him.
- (2) The authority or officer proceeding under sub-section (1) may, for the purpose of securing the attendance of any person against whom any order is proposed to be made under Secs. <sup>1</sup>[55, 56, 57 and 57-A] require such person to appear before him and to pass a security bond with or without sureties for such attendance during the inquiry. If the person fails to pass the security bond as required or fails to appear before the officer or authority during the inquiry, it shall be lawful to the officer or authority to proceed with the inquiry and thereupon such order as was proposed to be passed against him, may be passed.

#### **Gujarat Amendment:**

In Sec. 59, for the words “No Revenue Commissioner, Magistrate” the words “No Magistrate” shall be substituted.<sup>2</sup>

60. **Appeal.** <sup>3</sup>[(1)] Any person aggrieved by an order made under Secs. <sup>1</sup>[55, 56, 57 and 57-A] may appeal to the State Government within thirty days from the date of such order.

<sup>4</sup>(2) An appeal under this section shall be preferred in duplicate in the form of a memorandum, setting forth concisely the grounds of objection to the order appealed against, and shall be accompanied by that order or a certified copy thereof.

(3) On receipt of such appeal, the State Government may, after giving a reasonable opportunity to the appellant to be heard either personally or by a pleader advocate or attorney and after such further inquiry, if any, as it may deem necessary, confirm, vary or cancel or set aside the order appealed against, and make its order accordingly:

Provided that the order appealed against shall remain in force pending the disposal of the appeal, unless the State Government otherwise directs.

(4) In calculating the period of thirty days provided for an appeal under this section, the time taken for granting a certified copy of the order appealed against, shall be excluded.

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<sup>1</sup> The words “from the date on which it was made”, subs by Mah Act 29 of 1970, Sec 3.

<sup>2</sup> Vide Gujarat Act 15 of 1964, Sec 4 and Sch.

<sup>3</sup> This section was renumbered as sub-section (1) by Bom Act 34 of 1959, Sec 20.

<sup>4</sup> Sub-sections (2), (3) and (4) were added, *ibid*.



61. **Finality of order passed by State Government in certain case.** Any order passed under Secs. <sup>1</sup>[55, 56, 57 and 57-A] or by the State Government under Sec. 60 shall not be called in question in any Court except on the ground that the authority making the order or any officer authorised by it had not followed the procedure laid down in sub-section (1) of Sec. 59 or that there was no material before the authority concerned upon which it could have based its order on the ground that the said authority was not of opinion that witnesses were unwilling to come forward to give evidence in public against the person in respect of whom an order was made under Sec. 56.

61. **Procedure on failure of person to leave the area and his entry therein after removal.** <sup>2</sup>[(1) If a person to whom a direction has been issued under Secs. <sup>2</sup>[55, 56, 57 and 57-A] to remove himself from an area

(i) fails to remove himself as directed, or

(ii) having so removed himself, except with the permission in writing of the authority making the order <sup>3</sup>[as provided in sub-section (2)], enters the area within the period specified in the order, the authority concerned may cause him to be arrested and removed in police custody to such place outside the area as the said authority may in each case prescribe.

<sup>4</sup>[(2). The authority making an order under Secs. <sup>2</sup>[55, 56, 57 and 57-A] may in writing permit any person in respect of whom such order has been made to enter or return to the area, including any contiguous districts or part thereof, from which he was directed to remove himself, for such temporary period and subject to such conditions as may be specified in such permission and may require him to enter into a bond with or without surety for the due observance of the conditions imposed. The authority aforesaid may at any time revoke any such permission. Any person who with such permission enters or returns to such area shall observe the conditions imposed, and at the expiry of the temporary period for which he was permitted to enter or return, or on the earlier revocation of such permission, shall remove himself outside such area, or the area and any contiguous districts or part thereof, and shall not enter therein or return thereto within the unexpired residue of the period specified in the original order made under Secs., <sup>5</sup>[55, 56, 57 and 57-A] without a fresh permission. If such person fails to observe any of the conditions imposed, or to remove himself accordingly, or having so removed himself enters or returns to the area, or the area and any contiguous districts or part thereof, without fresh permission, the authority concerned may cause him to be arrested and removed in police custody to such place outside the area as that authority may in each case prescribe.]

63. **Temporary permission to enter or return to the area from which a person was directed to remove himself.** (1) The State Government <sup>6</sup>[or any officer specially empowered by the State Government in that behalf] may, by order, permit any person in respect of whom an order has been made under Secs. <sup>1</sup>[55, 56, 57 and 57-A] to enter or return for a temporary period to <sup>7</sup>[the area, or such area and any contiguous districts or part thereof, as the case may be, from which he was directed to remove himself, subject to such conditions as it <sup>8</sup>[or he] may by general or special order specify, and which such person accepts and may, at any time, revoke any such permission.

(2) In permitting a person under sub-section (1) to enter or return to <sup>3</sup>[the area or such area and any

<sup>1</sup> Added by Mah Act XV of 1976, Sec 4 and Sch (wef 13-2-1976).

<sup>2</sup> This section was renumbered as sub-section (1) by Bom Act 37 of 1959, Sec. 3.

<sup>3</sup> These words, brackets and figures were inserted *ibid*.

<sup>4</sup> This sub-section was added by Bom Act 37 of 1959, Sec 3 (2).

<sup>5</sup> Added by Mah Act XV of 1976, Sec 4 and Sch (wef 13-2-1976).

<sup>6</sup> These words were inserted by Bom Act 34 of 1959, Sec 21 (1) (a).

<sup>7</sup> These words were inserted by Bom Act 1 of 1956, Sec 1.

<sup>8</sup> These words were inserted by Bom Act 34 of 1959, Sec 21 (1) (b).

contiguous districts, or part thereof, as the case may be], from which he was directed to remove himself, the State Government <sup>1</sup>[or such officer may require him to enter into bond with or without surety for the observance of the conditions imposed.]

- (3) Any person permitted under sub-section (1) to enter or return to <sup>3</sup>[the area or such area and any contiguous districts, or part thereof, as the case may be], from which he was directed to remove himself shall surrender himself at the time and place and to the authority specified in the order or in the order revoking the said order, as the case may be.

#### **Gujarat Amendment:**

In the principal Act, in Sec. 63, in sub section (1), the word “specially” shall be deleted.<sup>2</sup>

In Sec. 63 in sub-section (11), for Cl. (a), substitute the following :

“(a) the Gujarat Legislative Assembly, or”.<sup>3</sup>

**63-AA. Powers of externment of State Government and officers specially empowered.** (1) The State Government or any officer specially empowered by the State Government in that behalf, may, in like circumstances and in like manner, exercise the powers exercisable, in any area for which a Commissioner is appointed by the Commissioner, and in a district by the District Magistrate, Sub-Divisional Magistrate or Superintendent specially empowered by the State Government in that behalf, as the case may be, under Secs. 55, 56, 57 and 57-A. with this modification that it shall be lawful for the State Government or the officer specially empowered to direct the members of such gang or body, or persons or immigrants, or persons convicted or person declared to be beggars, as the case may be, to remove themselves from, and not to enter or return to, any local area, or any such area and any district or part thereof, whether contiguous thereto or not.

- (2) The provisions of Secs. 58, 59, 60, 61, 62 and 63 shall *mutatis mutandis* apply to the exercise of any powers under this section, as they apply to the exercise any powers under Secs. 55, 56, 57 and 57-A.

#### **Gujarat Amendment:**

In Sec. 63-AA, for sub-section (1), the following sub-sections shall be substituted, namely :-

“(1) The State Government may, in like circumstances and in like manner, exercise the powers exercisable, in any area for which a Commissioner is appointed, by the Commissioner, and in a district by the District Magistrate, Sub-Divisional Magistrate or District Superintendent of Police empowered by the State Government in this behalf, as the case may be, under Secs, 55, 56 and 57, with this modification that it shall be lawful for the State Government to direct the members of such gang or body, or persons or immigrants, or person convicted, as the case may be, to remove themselves from and not to enter or return to, any local area, or any such area and any district or part thereof, whether contiguous thereto or not.

(1-A) The State Government may, by an order, specially empower any officer in that behalf to exercise its powers under sub-section (1) in relation to such of the Secs. 55, 56 and 57 as may

<sup>1</sup> These words were inserted *ibid*, Sec 21 (2).

<sup>2</sup> Vide Gujarat Act 16 of 1978, Sec 13 (wef 3-3-1978).

<sup>3</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

be specified in such order.”<sup>1</sup>

<sup>2</sup>[III. Control of camps, etc., and uniforms

**63-A. Control of camps, parades, etc., and banning use of uniform, etc.** (1) If the State Government is satisfied that it is necessary in the interest of the maintenance of public order so to do, it may by general or special order prohibit or restrict throughout the State of Maharashtra or any part thereof all meetings and assemblies of persons for the purpose of training or drilling themselves or being trained or drilled to the use of arms, or for the purpose of practising military exercises, movements or evolutions, or for the purpose aforesaid of attending or balding or taking any part in any camp, parade or procession.

(2) If the State Government is satisfied that the wearing in public by any member of the body or association or organisation to be specified in the order to be issued hereunder of any dress or article of apparel resembling any uniform or part of uniform required to be worn by a member of the Armed Forces of the Union or by a member of the Police Force or of any force constituted under any law for the time being in force, would be likely to prejudice the security of the State or the maintenance of public order, the State Government may, by general or special order, prohibit or restrict the wearing, or display in public, of any such dress or article of apparel by any member of such body or association or organisation.

(3) Every general or special order under sub-sections (1) and (2) shall be published in the manner prescribed for the publication of a public notice under Sec. 163.

*Explanation.* For the purposes of sub-section (2) a dress or an article of apparel shall be deemed to be worn or displayed in public, if it is worn or displayed in any place to which the public have access.]

**Gujarat Amendment:**

In Sec. 63-A in sub-section (1), for “State of Maharashtra” substitute “State of Gujarat”.<sup>3</sup>

<sup>4</sup>[IV. Village Defence Parties

**63-B Constitution of vii/age defence parties.** (1) For the protection of persons, the security of property and the public safety in villages, the District Superintendent may constitute voluntary bodies, hereinafter in this section called “village defence parties” for any villages within his jurisdiction, as he deems fit.

(2) Subject to any general or special orders which the State Government may make in this behalf, every person between the ages of 20 and 50 and residing in a village and who in the opinion of the District Superintendent is a fit and proper person having regard to the nature of duties and functions to be performed under the provisions of this section shall be eligible for appointment as a member of the village defence party constituted for his village.

(3) The Superintendent may by a written order signed by himself and sealed with his own seal, appoint any person eligible under sub-section (2) to be a member of a village defence party.

<sup>1</sup> Vide Gujarat Act 8 of 1980, Sec. 2 (wef 1-9-1980).

<sup>2</sup> This heading and Sec. 63-A were inserted by Bom Act 20 of 1953, Sec. 7.

<sup>3</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>4</sup> This heading and Sec. 63 B were inserted by Bom Act 1 of 1956, Sec. 9.

- (4) For each village defence party the Superintendent shall appoint a person eligible under sub-section (2) to be an honorary Commandant, called the Kotwal.
- (5) For the direction and supervision of village defence parties in a *taluka* the Superintendent may appoint a police officer, not below the rank of Head Constable, to be a Taluka Village Defence Officer, and any person who is willing to serve and in the opinion of the District Superintendent is fit, to be a Joint Taluka Village Defence Officer.
- (6) For the direction and supervision of village defence parties in a district, the Superintendent may appoint a police officer, not below the rank of Sub Inspector to be a District Village Defence officer, and any person who is willing to serve and in the opinion of the District Superintendent is fit, to be a Joint District Village Defence Officer.
- (7) Members of village defence parties and officers, appointed under the section, shall be under the direction and control of the District Superintendent and shall receive such training, and discharge such duties, as may be determined by the Superintendent.
- (8) Members of village defence parties and officers (other than police officers) appointed under this section, shall be subject to such terms and conditions of service as may be determined, with the previous approval of the State Government, by the District Superintendent.
- (9) The Superintendent or any officers appointed under this section may at any time call out officers subordinate to them, or any member of a village defence party for training or to discharge the duties assigned to them.
- (10) Every member of a village defence party and every officer appointed under this section shall-
  - (a) on appointment receive a certificate in a form approved by the State Government in this behalf;
  - (b) when called out for duty, have the same powers, privileges and protection as a police officer appointed under this Act.
- (11) Notwithstanding anything contained in any law for the time being in force, a member of a village defence party or any officer (other than a police officer) appointed under this section, shall not be disqualified from being chosen as, or for being, a member of-
  - (a) the Maharashtra Legislative Assembly, or the Maharashtra Legislative Council, or
  - (b) any local authority, by reason only of the fact that he is a member of a village defence party or such officer.
- <sup>1</sup>[(12) In such districts as the State Government may by notification in the official Gazette specify, the powers, duties and functions of the District Superintendent, District Village Defence Officer and Taluka Village Defence Officer under this section shall be exercised, performed and discharged by such officers of the Home Guards as the Commandant General appointed under the Bombay Home Guards Act, 1947 (Bom. Act III of 1947), may direct, and thereupon all the foregoing provisions of this section shall apply but references therein to the District Superintendent, District Village Defence Officer and Taluka Village Defence Officer shall be deemed to be references to the relevant officers of the Home Guards.]

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<sup>1</sup> Sub section (12) was inserted by Bom Act 34 of 1959, Sec. 23.

## CHAPTER VI

### Executive Powers and Duties of the Police

64. **Duties of a Police officer.** It shall be the duty of every Police officer-
- (a) promptly to serve every summons and obey and execute every warrant or other order lawfully issued to him by competent authority, and to endeavour by all lawful means to give effect to the lawful commands of his superior;
  - (b) to the best of his ability to obtain intelligence concerning the commission of cognizable offences or designs to commit such offences, and to lay such information and to take such other steps, consistent with law and with the orders of his superiors as shall be best calculated to bring offenders to justice or to prevent the commission of cognizable offences and within his view of non-cognizable offences;
  - (c) to prevent to the best of his ability the commission of public nuisances;
  - (d) to apprehend without unreasonable delay all persons whom he is legally authorised to apprehend and for whose apprehension there is sufficient reason ;
  - (e) to aid another Police officer when called on by him or in case of need in the discharge of his duty, in such ways as would be lawful and reasonable on the part of the officer aided;
  - (f) to discharge such duties as are imposed upon him by any law for the time being in force.
65. **Power to enter places of public resort.** (1) Every Police officer may, subject to the rules and orders made by the State Government or by a person lawfully authorized, enter for any of the purposes referred to in Sec. 64 without a warrant, and inspect any place of public resort which he has reason to believe is used as drinking shop, or a shop for the sale of intoxicating drugs or a place of resort of loose and disorderly characters.
- (2) Power to search suspected persons in a street. When in a street or a place of public resort a person has possession or apparent possession of any article which a Police officer in good faith suspects to be stolen property, such Police officer may search for and examine the same and may require an account thereof, and should the account given by the possessor be manifestly false or suspicious, may detain such article and report the facts to a Magistrate who shall thereon proceed according to Secs. 523 and 525 of the Code of Criminal Procedure, 1898 (V of 1898), or other law in force.
66. **Duties of Police officers towards the public.** It shall be the duty of every Police officer-
- (a) to afford every assistance within his power to disabled or helpless persons in the streets, and to take charge of intoxicated persons and of lunatics at large who appear dangerous or incapable of taking care of themselves;
  - (b) to take prompt measures to procure necessary help (or any person under arrest or in custody, who is wounded or sick and whilst guarding, or conducting any such person, to have due regard to his condition ;
  - (c) to arrange for the proper sustenance and shelter of every person who is under arrest or in custody;
  - (d) in conducting searches, to refrain from needless rudeness and the causing of unnecessary annoyance ;
  - (e) in dealing with women and children to act with strict regard to decency and with reasonable gentleness;
  - (f) to use his best endeavours to prevent any loss or damage by fire;
  - (g) to use his best endeavours to avert any accident or danger to the public.

- 67. Police to regulate traffic, etc., in streets.** It shall be the duty of a Police officer-
- (a) to regulate and control the traffic in the streets, to prevent obstructions therein and to the best of his ability to prevent the infraction of any rule or order made under this Act or any other law in force for observance by the public in or near the streets;
  - (b) to keep order in the streets and at and within public bathing, washing and landing places, fairs, temples and all other places of public resort and in the neighbourhood of places of public worship during the time of public worship;
  - (c) to regulate resort to public bathing, washing and landing places, to prevent overcrowding thereat and in public ferry-boats and, to the best of his ability, to prevent the infraction of any rule or order lawfully made for observance by the public at any such place or on any such boat.
- 68. Persons bound to conform to reasonable orders of Police.** All persons shall be bound to conform to the reasonable directions of a Police officer given in fulfilment of any of his duties under this Act.
- 69. Power of Police officers to restrain or remove, etc.** A Police officers may restrain or remove any person resisting or refusing or omitting to conform to any direction referred to in Sec. 68 and I may either take such person before a Magistrate or, in trivial cases, may release him when the occasion is past.
- 70. Enforcement of orders issued under Secs. 37, 38 or 39.** Whenever a notification has been duly issued under Sec. 37 or an order has been made under Sec. 38 or 39, it shall be lawful for any Magistrate in a District or Police officer to require any person acting or about to act contrary thereto to desist or to abstain from so doing, and, in case of refusal or disobedience, to arrest the person offending. Such Magistrate or Police officer may also seize any object or thing use or about to be used in contravention of such notification or order as aforesaid, and the thing seized shall be disposed of according to the order of any District Magistrate having jurisdiction at the place.
- 71. Duty of Police to see orders issued under Secs. 43, 55, 56, <sup>1</sup>[57, 57-A or 63-AA] are carried out.** It shall be the duty of the Police to see that every regulation and direction made by any authority under Secs. 43, 55, 56 <sup>1</sup>[57, 57-A or 63-AA], is duly obeyed, to warn persons who from ignorance fail to obey the same and to arrest any person who wilfully disobeys the Slime.
- 72. When Police officer may arrest without warrant.** Any police officer may, without any order from a Magistrate and without a warrant, arrest-
- (1) any person who has been concerned in an offence punishable under Sec 121 or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists, of his having been concerned in such offence;
  - (2) any person who contravenes a rule or order under Cl. (x) of sub-section (1) of Sec. 33 or an order or notification under Secs. 36, 37, 56, [57, 57-A or 63-AA] ;
- <sup>2</sup>[(2-A) any person who contravenes any order made under sub-section (1) of Sec. 63-A ;
- (3) any person who commits an offence punishable under Sec. 122 or Sec. 136.
- 73. When Police may arrest without a warrant.** Any Police officer may, without an order from a Magistrate and without a warrant, arrest any person committing in his presence any offence

<sup>1</sup> Subs by Mah Act XV of 1976, Sec. 4 and Sch (wef 13-2-1976).

<sup>2</sup> Clause (2-A) was inserted by Bom Act 20 of 1953, Sec. 8.

punishable under <sup>1</sup>[Cls. (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k) or (m) of sub-section (1) of Sec. 11 of the Prevention of Cruelty to Animals Act, 1960.

<sup>2</sup>[\* \* \*]

### **Gujarat Amendment:**

In Sec. 73 omit “or under Sec. 3, 4, 5 or 5-A of the Prevention of Cruelty to Animals Act”.<sup>3</sup>

After Sec. 73 the following section shall be inserted, namely :-

“73-A. Extension of Sec. 6-B of Act XI of 1890 as in force in pre-Reorganisation State to rest of State for the purposes of Secs. 74 to 77.- Section 6-B of the Prevention of Cruelty to Animals Act, 1890 (XI of 1890), as in force in the Bombay area of the State of Gujarat (hereinafter in this section and in Secs. 74, 75 and 77 referred to as the said ‘Act’) is, for the purposes of Secs. 74 to 77 (both inclusive), hereby extended to, and shall be in force in the remaining areas of the (State of Gujarat) and in consequence thereof, any provisions corresponding thereto or dealing with the like matter, in force in any such areas of the State shall be deemed to have been substituted by the aforesaid provision of the said Act.”<sup>4</sup>

74. ***Powers with regard to offences under <sup>5</sup>[Act 49 of 1960] and corresponding laws.*** When in respect of an animal an offence under <sup>6</sup>[sub-section (1) of Sec. 11 or Sec. 12 of the Prevention of Cruelty to Animals Act, 1960 (hereinafter in this section and in Secs. 75 and 77 referred to as “the said Act”)] has been committed, or, when there is a reasonable ground for suspecting that such offence has been committed, a Police officer may-

- (a) take the animal to a Magistrate, or
- (b) if the accused person so requires, take the animal to a Veterinary officer, if any, empowered by the State Government, in this behalf, or
- (c) take the animal to an infirmary appointed under <sup>7</sup>[Sec. 35] of the said Act for treatment and detention therein, pending direction of Magistrate under <sup>8</sup>[\* \* \*] of the said section, or
- (d) when the animal is in such a physical condition that it cannot be taken to a Veterinary officer or a Magistrate, draw up a report of the condition of the animal in the presence of two or more respectable persons describing such wounds, sores, fractures, bruises or other marks of injury as may be found on the body of the animal:

Provided that in the cases falling under Cl. (b) or (d) the Police officer may direct that the animal shall be sent for detention in a dispensary or any suitable place approve, by the State Government by general or special order and be there detained until its production before a Magistrate;

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<sup>1</sup> Subs by Mah Act 24 of 1964.

<sup>2</sup> Section 73-A deleted vide Mah Act 24 of 1964.

<sup>3</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>4</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>5</sup> Subs by Mah Act 24 of 1964.

<sup>6</sup> Subs by Mah Act 24 of 1964.

<sup>7</sup> Subs by *ibid*.

<sup>8</sup> Deleted by *ibid*

Provided further that an animal so detained shall be produced before a Magistrate with the least possible delay and within a period not exceeding three days from the date on which it was sent for detention and shall be handed over to its owner unless the Magistrate passes an order for its further detention in an infirmary.

### **Gujarat Amendment:**

In Sec. 74 omit “or under Sec. 3 or 4 or 5 of the Prevention of Cruelty to Animals Act”.<sup>1</sup>

**75. Powers of Magistrate to return animal to person from whose possession it was taken.** When an animal is brought before a Magistrate under Sec. 74, the Magistrate may direct the animal to be returned to the person from whose possession it was taken, on such person giving security to the satisfaction of the Magistrate, binding himself to produce the animal when required, or may direct that the animal shall be sent for treatment and care to an infirmary and be there detained as provided in <sup>2</sup>[Sec 35] of the said Act or may make such order as he thinks fit regarding the disposal or custody and production of the animal.

**76 Veterinary officer to examine the animal.** The Veterinary officer before whom an animal is brought under Sec. 74 shall with all convenient speed examine the same and draw up a report of such examination. A copy of the report shall be delivered free of charge to the accused person if he applies for it.

**77. Animal to be dealt with under**<sup>3</sup>[Act 49 of 1960] When under Sec. 74 a Police officer directs that an animal shall be sent for detention in a dispensary or any suitable place before its production before a Magistrate or under Sec. 7 a Magistrate directs that an animal shall be sent for treatment and care to an infirmary and be detained therein, the provisions of sub-sections <sup>4</sup>[Sec. 35] of the said Act shall, so far as may be, apply.

**78. Powers of Police officer to unsaddle the animal or unload.** When a Police officer in good faith suspects that any animal being employed in any work or labour is, by reason of any sore, unfit to be so employed, he may require the person in charge of such animal to unsaddle or unload it for the purpose of ascertaining whether any sore exists and, if any person refuses to do so, may himself unsaddle or unload the animal or may cause the same to be unsaddled or unloaded.

<sup>5</sup>[79. **Power of police to arrest without warrant when certain offence committed in his presence.** Any Police officer may, without an order from a Magistrate and without a warrant, arrest any person committing in his presence any offence punishable under Sec. 117 or Sec. 125 or Sec. 130 or sub-clause (i), (iv) or (v) of Sec. 131 or Cl (i) of Sec. 135 in respect of contravention of any order made under Sec. 39 or 40.]

**80. Other powers of arrest.** (1) Any Police officer specially empowered in this behalf by a competent authority may arrest without warrant for an offence specified in Sec. 110.

(2) Any Police officer may, on the information of any person in possession or charge of any dwelling-house, private premises, or land or ground attached thereto, arrest without warrant any person

<sup>1</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>2</sup> Subs by Mah Act 24 of 1954.

<sup>3</sup> Subs by *ibid*.

<sup>4</sup> Subs by *ibid*.

<sup>5</sup> This section was substituted for the original, by Bom Act 21 of 1954, Sec. 3, Second Schedule.



alleged to have committed therein or thereon an offence punishable under Sec. 120.

81. **Refusal to obey warning or to accompany Police.** A Police officer may arrest without warrant any person committing in his presence in any street or public place any non cognizable offence punishable under this Act, or under any rule thereunder and for which no express provision has been made elsewhere or under any other law for the time being in force, if such person
- (i) after being warned by a Police officer persists in committing such offence, or
  - (ii) refuses to accompany the Police officer to a Police Station on being required so to do.
82. **Police to take charge of unclaimed property.** (1) The Police shall take temporary charge -
- (a) of all unclaimed property found by, or made over to them, and also;
  - (b) of all property found lying in any public street, if the owner or person in charge of such property on being directed to remove the same, refuses or omits to do so.
- (2) In Greater Bombay the property of which the Police have taken charge under sub-section (1) shall be handed over to the Commissioner.
83. **Intestate property over four hundred rupees in value.** (1) <sup>1</sup>[In any area for which a Commissioner has been appointed] if any property of the nature referred to in Sec. 82 appears to have been left by a person who has died intestate, and not to be under four hundred rupees in value, the Commissioner shall communicate with the Administrator-General, with a view to its being dealt with under the provisions of the Administrator-Generals Act, 1913 (11 of 1913) or other law for the time being in force.
- (2) <sup>2</sup>[In area outside the charge of a Commissioner] the property shall be delivered to the police-patel, if any, of the town or village in which the same was found, and a receipt therefor taken from police-patel, who shall forward such property to the Magistrate, to whom such police-patel is subordinate. If in any such case there be no police-patel of such town or village, the Police shall forthwith report to such Magistrate as the Magistrate of the district shall, from time to time, appoint in this behalf, and act thereafter as the said first mentioned Magistrate shall direct.
84. **Intestate property over four hundred rupees in value.** If the property regarding which a report is made to a Magistrate under Sec. 83 or under Sec. 19 of the Bombay Village Police Act, 1867 (Bom. VIII of 1867), <sup>3</sup>[or of that Act as in the Kutch area of the State of Bombay, or under Sec. 21 of the Saurashtra Village Police Ordinance, 1949 (Sau. Ord. XXXII of 1949)] appears to such Magistrate to have been left by a person who has died intestate and without known heirs and to be likely, if sold in public auction, to realise more than four hundred rupees net proceeds, he shall communicate with the District Judge with a view to its being dealt with under the provisions of Sec. 10 of Bombay Regulation VIII of 1827 (a Regulation to provide for the formal recognition of heirs, etc.) or other law in force.
85. **Procedure in other cases.** (1) In any case not covered by Sec. 83 or 84 the Commissioner or the Magistrate concerned, as the case may be, shall issue a proclamation specifying the articles of which such property consists and requiring any person who may have a claim thereto to appear before himself or some other officer whom he appoints in this behalf and establish his claim within six months from the date of such proclamation.

<sup>1</sup> These words were substituted for the words "In Greater Bombay" by Bom 56 of 1959, Sec. 3, Schedule.

<sup>2</sup> These words were substituted for the words "In areas outside Greater Bombay" by Bom 55 of 1959, Sec. 8, Schedule.

<sup>3</sup> These words and figures were inserted by Bom 34 of 1959, Sec. 27.

(2) **Power to sell perishable property at once.** If the property, or any part thereof, is subject to speedy and natural decay, or consists of live-stock, or if the property appears to be of less value than five rupees, it may be forthwith sold by auction under the orders of the Commissioner, or the Magistrate concerned, as the case may be, and the net proceeds of such sale shall be dealt with in the same manner as is hereinafter provided for the said property.

### **Gujarat Amendment:**

In the principal Act, in Sec. 85,-

(1) in sub-section (1), for the portion beginning with the words “to appear before” and ending with the words “of such proclamation”, the following shall be substituted, namely :-

"to appear before himself or some other officer whom he appoints in this behalf within three months from the date of such proclamation and establish his claim within a period not exceeding three months after such appearance:

Provided that the Commissioner, the Magistrate or the concerned Officer, may, in any appropriate case, for reasons to be recorded in writing, extend the said period of three months for establishment of the claim by such further period and subject to such conditions as he may deem fit."

(2) in sub-section (2), for the words “five rupees”, the words “fifty rupees” shall be substituted.<sup>1</sup>

86. **Delivery of property to person entitled.** (1) The Commissioner or the Magistrate concerned, as the case may be, shall, on being satisfied of the title of any claimant to the possession or administration of the property specified in the proclamation issued under sub-section (1) of Sec. 85, order the same to be delivered to him, after deduction or payment of the expenses properly incurred by the Police in the seizure and detention thereof.

(2) **Power to take security.** The Commissioner or the Magistrate concerned, as the case may be, may, at his discretion, before making any order under sub-section (1), take such security as he may think proper from the person to whom the said property is to be delivered and nothing hereinbefore contained shall affect the right of any person to recover the whole or any part of the same from the person to whom it may have been delivered pursuant to such order.

87. **In default of claim, property to be at disposal of State Government.** If no person establishes his claim to such property within the period specified in the proclamation, it shall be at the disposal of the State Government and the property, or such part thereof as has not already been sold under sub-section (2) of Sec. 85, may be sold by auction under the orders of the Commissioner, or the Magistrate concerned, as the case may be.

### **Gujarat Amendment :**

In Sec. 87, for the words “establishes his claim to such property within the period specified in the proclamation”, the following shall be substituted, namely :

"appears within the period specified in the proclamation under sub-section (1) of Sec. 85 and establishes his claim to the property within the period specified in the said sub-section (1)".<sup>2</sup>

<sup>1</sup> Vide Gujarat Act 16 of 1978, Sec. 14 (wef 3-3-1978).

<sup>2</sup> Vide Gujarat Act 16 of 1978, Sec. 15 (wef 3-3-1978).

88. **Procedure not affected by Indian Succession Act or Administrator-Generals Act or Regulation VIII of 1827**<sup>1</sup>[or corresponding laws]. Nothing in the Indian Succession Act, 1925 (XXXIX of 1925), or in the Administrator-Generals Act, 1913 (III of 1913), shall apply to intestate property which is dealt with by the Commissioner, under sub-section (1) of Sec. 85, nor shall the provisions of Sec. 10 of Regulation VIII of 1827<sup>2</sup>[or of any corresponding law in force] likewise be deemed to apply to intestate property which is dealt with by a Magistrate under sub-section (1) of Sec. 85.

89. **Police officer may take charge of the stray cattle.**<sup>3</sup>[In any area outside the charge of a Commissioner], a Police officer may take charge of any animal falling under the provisions of the Cattle Trespass Act, 1871 (I of 1871) or as the case may be under the Hyderabad Cattle Trespass Act which may be found straying in a street, and may take or send the same to the nearest pound, and the owner and other persons concerned shall thereon become subject to the provisions of the relevant Act.

### Gujarat Amendment:

In Sec. 89, omit “or that Act as in force in the Saurashtra area of the state of Bombay, or, as the case may be, under the Hyderabad Cattle Trespass Act” and for “the relevant Act” substitute “this Act”.<sup>4</sup>

90. **Power to establish Cattle-pounds and appoint pound-keepers.** (1)<sup>5</sup>[In any area<sup>6</sup>[other than Greater Bombay] under the charge of a Commissioner] the Commissioner<sup>7</sup>[\* \* \* \*] shall, from time to time, appoint such places as he thinks fit to be public pounds, and may appoint to be keepers of such pounds Police officers of such rank as may be approved by the State Government.

(2) Every pound-keeper so appointed shall, in the performance of his duties, be subject to the direction and control of the Commissioner,<sup>8</sup>[\* \* \*].

<sup>9</sup>[90-A. **Penalty for allowing cattle to stray in street or to trespass upon private or public property.** (1) Whoever in<sup>10</sup>[any area<sup>11</sup>[other than Greater Bombay] under the charge of a Commissioner] allows any cattle which are his property or in his charge to stray in any street or to trespass upon any private or public property shall, on conviction, be punished -

(i) for the offence, with imprisonment for a term which may extend to one month or with fine which may extend to three hundred rupees or with both;

(ii) for the second or subsequent offence, with imprisonment for a term “which may extend to six months or with fine which may extend to five hundred rupees, or with both.

(2) The Magistrate trying the offence under sub-section (1) may order, -

(a) that the accused shall pay such compensation, not exceeding two hundred and fifty rupees as the Magistrate considers reasonable, to any person for any damage proved to have been caused

<sup>1</sup> These words were inserted by Bom 34 of 1959, Sec. 28 (2).

<sup>2</sup> Ibid, Sec. 28 (1).

<sup>3</sup> These words were substituted for the words “In any area outside Greater Bombay” by Bom 56 of 1959, Sec. 3, Schedule.

<sup>4</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>5</sup> Those words were substituted for the words “In Greater Bombay” by Bom 56 of 1959, Sec. 3, Schedule.

<sup>6</sup> Ins by Mah Act XVIII of 1974, Sec. 5, (wef 23-4-1974).

<sup>7</sup> The words and figures “and in other areas to which the State Government may by notification in the official Gazette extend the provisions of this section and Secs. 91, 92, 93 and 94 of this Act, any officer appointed in that behalf by the State Government” were deleted by Bom 20 of 1951, Sec. 9.

<sup>8</sup> The words “or such officer as aforesaid” were deleted, *ibid*.

<sup>9</sup> Section 90-A was inserted, *ibid*, Sec. 10.

<sup>10</sup> These words were substituted for the words “Greater Bombay” by Bom 56 of 1959, Sec. 3, Schedule.

<sup>11</sup> Ins by Mah Act XVIII of 1974, Sec. 6, (wef 23-4-1974).

to his property or to produce of land by the cattle under the control of the accused trespassing on his land; and also

(b) that the cattle in respect of which an offence has been committed shall be forfeited to the State Government.

(3) Any compensation awarded under sub-section (2) may be recovered as if it were a fine imposed under this section.

(4) An offence under this section shall be cognizable.]

91. **Impounding of cattle.** It shall be the duty of every Police officer, and it shall be lawful for any other person, to seize and take to any such public pound for confinement therein, any cattle found straying in any street or trespassing upon any private or public property in <sup>1</sup>[any area <sup>2</sup>[other than Greater Bombay under the charge of a Commissioner] <sup>3</sup>[\* \* \*].

92. **Delivery of cattle claimed.** If the owner of the cattle impounded under Sec. 91 or his agent appears and claims the cattle, the pound-keeper shall deliver them on payment of the pound-fees and expenses chargeable in respect of such cattle under Sec. 94.

93. **Sale of cattle not claimed.** (1) If within ten days after an animal has been impounded, no person appearing to be the owner of such animal offers to pay the pound-fee and expenses chargeable under Sec. 94, such animal shall be forthwith sold by auction and the surplus remaining after deducting the fee and expenses aforesaid from the proceeds of the sale shall be paid to any person who, within fifteen days after the sale, proves to the satisfaction of such officer as the Commissioner authorises in this behalf <sup>4</sup>[\* \* \*] that he was the owner of such animal, and shall in any other case, form part of the consolidated fund of the State.

(2) No police officer or pound-keeper shall, directly or indirectly, purchase any cattle at a sale under sub-section (1).

94. **Rate to be fixed by notification.** (1) The pound-fee chargeable shall be such as the State Government may, from time to time by notification in the official Gazette, specify for each kind of animal <sup>5</sup>[\* \* \*].

(2) The expenses chargeable shall be at such rates for each day during any part of which an animal is impounded, as shall from time to time be fixed by the Commissioner <sup>2</sup>[\* \* \*] in respect of such animal.

95. **Powers as to inspection, search and seizure of false weights and measures.** (1) Notwithstanding anything contained in Sec. 153 of the Code of Criminal Procedure, 1898 [V of 1898], any Police officer generally or specially deputed, in <sup>6</sup>[any area under the charge of a Commissioner] by the Commissioner and elsewhere, by the District Superintendent or any other officer specially empowered in that behalf by the State Government, may without warrant enter any shop or premises for the purpose of inspecting or searching for any weights or measures or instruments for weighing or

<sup>1</sup> These words were substituted for the words "Greater Bombay" by Bom 56 of 1959, Sec. 3, Schedule.

<sup>2</sup> Ins by Mah Act XVIII of 1974, Sec. 7 (wef 23-4-1974).

<sup>3</sup> The words "or in such areas as aforesaid" were deleted by Bom 20 of 1953, Sec. 11.

<sup>4</sup> The words and figures "or any other officer appointed under Sec. 90" were deleted, *ibid*, Sec. 12.

<sup>5</sup> The words "for the whole State or for such area as may be specified in the notification" were deleted, *ibid*, Sec. 13 (2).

<sup>6</sup> The words "or any officer appointed as aforesaid" were deleted, *ibid*, Sec. 13 (2).

measuring used or kept therein.

- (2) If he finds in such shop or premises weights, measures or instruments for weighing or measuring which he has reason to believe are false, he may seize the same and shall forthwith give information of such seizure to the Magistrate having jurisdiction, and if such weights, measures or instruments shall be found by the Magistrate to be false, they shall be destroyed.
- (3) Weights and measures purporting to be of the same denomination as weights and measures, the standards whereof are kept under any law from time to time in force shall, if they do not correspond with the standards, be deemed to be false within the meaning of this section.

96. ***Procedure to be followed by officers and Magistrates in certain cases.*** (1) Notwithstanding anything contained in Secs. 129, 130, sub-section (2) of Sec. 167, and Sec. 173 of the Code of Criminal Procedure, 1898 (V of 1898)-

- (i) the powers and duties of a Magistrate under Secs. 129. and 130 of that Code may, in <sup>1</sup>[any area under the charge of a Commissioner], be exercised and performed by the Commissioner.
  - (ii) the Presidency Magistrate in Greater Bombay to whom an accused person is forwarded under sub-section (9) of Sec. 167 of the Code, may, whether he has or has not jurisdiction to try the case, from time to time, authorise the detention of the accused in such custody as such Magistrate thinks fit for a term not exceeding fifteen days at a time.
  - (iii) the officer in charge of the Police station shall forward his report under Sec. 173 of the Code to the Commissioner or such other officer as the Commissioner may direct in that behalf.
- (2) Nothing contained in Sec. 62 of the Code of Criminal Procedure, 1898 (V of 1898), shall operate to require any officer-in-charge of a Police Station in <sup>2</sup>[any area under the charge of a Commissioner] to submit any report provided for by that section to any Magistrate.
- (3) Sections 127 and 128 of the Code of Criminal Procedure, 1898 (V of 1898), in their application to Greater Bombay <sup>3</sup>[any other area for which a Commissioner has been appointed] shall be amended as follows :-
- (a) in Sec. 127, for the words “police station” the words “section or any police officer not below the rank of a sub-inspector authorised by the State Government in this behalf” shall be substituted;
  - (b) in Sec. 128, for the words “police station whether within or without the presidency-towns” the words and figures “section or any police officer authorised under Sec. 127” shall be substituted.

97. ***A superior Police officer may himself perform duties imposed on inferior etc.*** A Police officer of rank superior to that of constable may perform any duty assigned by law or by a lawful order to any officer subordinate to him; and in case of any duty imposed on such subordinate, a superior where it shall appear to him necessary, may aid, supplement, supersede or prevent any action of such subordinate by his own action or that of any person lawfully acting under his command or authority, whenever the same shall appear necessary or expedient for giving more complete or convenient effect to the law or for avoiding an infringement thereof.

<sup>1</sup> These words were substituted for the words “Greater Bombay” by Bom 56 of 1959, Sec. 3, Sch.

<sup>2</sup> These words were substituted for the words “Greater Bombay” by Bom 56 of 1959, Sec. 3, Schedule.

<sup>3</sup> These words were inserted, *ibid*.

98. **Emergency of duties of Police.** (1) The State Government may, by notification in the official Gazette, declare any specified service to be an essential service to the community:

Provided that such notification shall remain in force for one month in the first instance, but may be extended, from time to time, by a like notification.

(2) Upon a declaration being made under sub-section (1) and so long as it remains in force, it shall be the duty of every Police officer to obey any order given by any superior officer in relation to employment upon or in connection with the service specified in the declaration; and every such order shall be deemed to be a lawful order within the meaning and for the purposes of this Act.

## CHAPTER VII

### Offences and Punishments

99. **Disregarding the rule of the road.** No person shall-

- (a) when driving a vehicle along a street and except in cases of actual necessity or of some sufficient reason, for deviation, fail to keep on the left side of such street and when passing any other vehicle proceeding in the same direction fail to keep on the right side of such vehicle; or
- (b) Leaving cattle, etc., insufficiently tended. Leave in any street or public place insufficiently tended or secured any animal or vehicle.

100. **Causing obstruction or mischief by animal.** No person shall cause obstruction, damage, injury, danger, alarm or mischief in any street or public place-

- (i) by misbehaviour, negligence or ill-usage in the driving, management, treatment or care of any animal or vehicle ; or
- (ii) by driving any vehicle or animal laden with timber, poles, or other unwieldy articles through a street or public place contrary to any regulation made in that behalf and published by a competent authority.

101. **Exposing animal for hire or sale, etc.** No person shall in any street or public place expose for hire or sale any animal or vehicle, clean any furniture or vehicle, or clean or groom any horse or other animal, except at such times and places as a competent authority permits, or shall train or break in any horse or other animal or make any vehicle or any part of a vehicle, or except when in the case of an accident repairing on the spot is unavoidable, repair any vehicle or part of a vehicle or carry on therein any manufacture or operation so as to be a serious impediment to traffic or a serious annoyance to residents or to the public.

102. **Causing any obstruction in a street.** No person shall cause obstruction in any street or public place by allowing any animal or vehicle which has to be loaded or unloaded, or to take up or set down passengers, to remain or stand therein longer than may be necessary for such purpose, or by leaving any vehicle standing or fastening any cattle therein. or using any part of a street or public place as a baiting place for vehicles or cattle, or by leaving any box, bale, package or other thing whatsoever in or upon a street for an unreasonable length of time or contrary to any regulation made and published by a competent authority by exposing anything for sale setting out anything for sale in or upon any stall, booth, board, casket or in any other way whatsoever.

103. **Obstructing a footway.** No person shall drive, ride, lead, propel or leave on any footway any animal so that the same can stand across or upon such footway.

104. ***Exhibiting mimetic, musical or other performances, etc.*** No person shall exhibit, contrary to any regulation made and notified by the [Revenue Commissioner] or a District Magistrate, as the case may be, any mimetic, musical or other performances of a nature to attract crowds, or carry or place bulky advertisements, pictures, figures or emblems in any street or public place whereby all obstruction to passengers or annoyance to the inhabitants may be occasioned.
105. ***Doing offensive acts on or near street or public place.*** No person shall slaughter any animal, clean a carcass or hide, or bathe or wash his person in or near to and within sight of a street or public place (except at a place set apart for the purpose by order of a competent authority) so as to cause annoyance to the neighbouring residents or to passersby.
106. ***Letting loose horse, etc. and suffering ferocious dogs to be large.*** No person shall in any street or public place (A) negligently let loose any horse or other animal, so as to cause danger, injury, alarm or annoyance, or suffer a ferocious dog to be at large without a muzzle, or (B) set on or urge a dog or other animal to attack, worry or put in fear any person or horse or other animal.
107. ***Bathing or washing in places riot set apart for those purposes.*** No person shall bathe or wash in or by the side of a public well, tank or reservoir not set apart for such purposes by order of a competent authority, or in or by the side of any pond, pool, aqueduct, part of a river, stream, nala or other source or means of water-supply in which such bathing or washing is forbidden by order of the competent authority.
108. ***Defiling water in public wells, etc.*** No person shall defile or cause to be defiled, the water in any public well, tank, reservoir, pond, pool aqueduct or part of a river, stream, nala or other source or means of water supply, so as to render the same less fit for any purpose for which it is set apart by the order of competent authority.
109. ***Obstructing bathers.*** No person shall obstruct or incommode a person bathing at a place set apart for the purpose by the order of the competent authority under Sec. 107 by wilful intrusion or by using such place for any purpose for which it is not so set apart.
110. ***Behaving indecently in public.*** No person shall willfully and indecently expose his person ill any street or public place or within sight of, and in such manner as to be seen from any street or public place, whether from within any house or building or not, or use indecent language or behave indecently or riotously, or in a disorderly manner in a street or place of public resort or in any office station or station house.
111. ***Obstructing or any annoying passengers in the street.*** No person shall willfully push, press, hustle or obstruct any passenger in a street or public place or by violent movements, menacing gestures, want personal annoyance, screaming, shouting, willfully frightening horses or cattle or otherwise disturb the public peace or order.
112. ***Misbehaviour with in rent to provoke a breach of the peace.*** No person shall use in any street or public place any threatening abusive or insulting words or behaviour with intent to provoke a breach of the peace or whereby a breach of the peace may be occasioned.
113. ***Prohibition against flying kite.*** No person shall fly a kite so as to cause danger, injury or alarm to persons, <sup>1</sup>[horses] or property.

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<sup>1</sup> This word was substituted for the word "houses" by Bom Act 21 of 1954, Sec. 3, Second Schedule.

114. **Begging and exposing offensive ailments.** Repealed by Bom. Act X of 1960, Sec. 1 (4), Schedule.
115. **Committing nuisance in or near street. etc.** No person shall in or near to any street, public place or place of public resort-
- (a) commit a nuisance by easing himself, or
  - (b) having the care or custody of any child under seven years of age suffer such child to commit a nuisance as aforesaid <sup>1</sup>[or
  - (c) spit or throw any dust, ashes, refuse or rubbish ; so as to cause annoyance to any passerby.]
116. **Disregard of notice ill public building.** No person shall, ill any court, Police Station, police Officer, building occupied by Government or building occupied by any public body, smoke or spit in contravention of a notice by a competent authority in charge of such place and affixed to such court, Station, office or building.
117. **Penalties for offenders under Secs. 99 to 116.** Any person who contravenes any of the provisions of Secs. 99 to 116 (both inclusive) shall, on conviction, be punished with fine which may extend to <sup>2</sup>[hundred rupees].
118. **Penalty for failure to keep in confinement cattle, etc.** (1) In any local area in which the State Government by notification in the official Gazette brings this section into force, whoever through neglect otherwise fails to keep in confinement or under restraint between one hour after sunset and Sunrise any cattle which are his property or in his charge shall, on conviction, <sup>3</sup>[be punished,-
- (i) for the first offence, with imprisonment for a term which may extend to one month or with fine which may extend to three hundred rupees or with both;
  - (ii) for the second or subsequent offence, with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both].

*Explanation.* Cattle shall not be deemed to be kept in confinement within the meaning of this sub-section unless they are effectively confined within a fence, wall or other enclosure and shall not be deemed to be kept under restraint within the meaning of this sub-section unless they are restrained by means of a rope or other attachment.

- <sup>4</sup>[(1-A) The Magistrate trying the offence under sub-section (1) may order,-
- (a) that the accused shall pay such compensation not exceeding two hundred and fifty rupees, as the Magistrate considers reasonable, to any person for any damage proved to have been caused to his property or to produce of land by the cattle under the control of the accused trespassing on his land; and also
  - (b) that the cattle in respect of which the offence has been committed shall be forfeited to the State Government,
  - (1-B) Any compensation awarded under sub-section (1-A) may be recovered as if it were a fine imposed under this section.
  - (1-C) The offence under this section shall be cognizable].
- (2) Any person may seize any cattle not being kept in confinement or under restraint as required by this section and may take or send the same to the nearest cattle-pound and the owner and other

<sup>1</sup> This word and clause was inserted by Bom Act 1 of 1956, Sec. 12.

<sup>2</sup> These words were substituted for the words "fifty rupee" by Bom Act 1 of 1956, Sec 13.

<sup>3</sup> This portion was substituted for the words beginning with the words "be punished" and ending with the words "or with both" by Bom Act 20 of 1953, Sec 14 (1).

<sup>4</sup> Sub-sections (1-A), (1-B) and (1-C) were inserted, *ibid*, Sec. 14 (2).



persons concerned shall thereon become subject to the provisions of the Cattle Trespass Act, 1871 (I of 1871), or of the Hyderabad Cattle Trespass Act, as the case may be, All officers of Police and all police patels and all members of the village police shall, when required, aid in preventing resistance to such seizures ,and rescues from persons making such seizures.

- (3) Any fine imposed under this section, may without prejudice to any other means of recovery provided by law, be recovered by sale of all or any of the cattle in respect of which the offence was committed, whether they are the property of the person convicted of the offence or were only in his charge when the offence was committed,

### **Gujarat Amendment:**

In Sec. 118 in sub-section (2), omit “or of that Act as in force in the Saurashtra area of the State of Bombay, or of the Hyderabad Cattle Trespass Act, as the case may be”.<sup>1</sup>

119. ***Punishment for cruelty to animals.*** Whoever in any place<sup>2</sup>[in any area for which a Commissioner has not been appointed] cruelly beats, goads, overworks, ill-treats or tortures or causes or procures to be cruelly beaten, goaded, over-worked, ill-treated or tortured any animal, shall, on conviction, be punished with imprisonment which may extend to one month or with fine which may extend to one hundred rupees, or with both.
120. ***Wilful trespass.*** Whoever without satisfactory excuse willfully enters or remains in or upon any dwelling-house or premises or any land or ground attached thereto, or on any ground, building, monument or structure belonging to Government or appropriated to public purposes, or on any boat or vessel, shall, on conviction, whether he causes any actual damage or not, be punished with fine which may extend to twenty rupees.
121. ***False alarm of fire or damage to fire-alarm.*** Whoever knowingly gives or causes to be given a false alarm of fire to the fire brigade of a municipality or corporation or to any officer or fireman thereof whether by means of a street fire-alarm, statement, message or otherwise, or, with intent to give such false alarm, wilfully breaks the glass of, or otherwise damages a street the-alarm, shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to one hundred rupees, or with both.
122. ***Being found under suspicious circumstances between sunset and sunrise.*** Whoever is found between sunset and sunrise-
- (a) armed with any dangerous instrument with intent to commit an offence, or
  - (b) having his face covered or otherwise disguised with intent to commit an offence, or
  - (c) in any dwelling-house or other building, or on board any vessel or boat without being able satisfactorily to account for his presence there, or
  - (d) lying or loitering in any street, yard or other place, being a reputed thief and without being able to give a satisfactory account of himself, or
  - (e) having in his possession without lawful excuse (the burden of proving which excuse shall be on such person<sup>3</sup>[any implement of house-breaking shall, on conviction, be punished with imprisonment which may extend to one year, but shall not, except for reasons to be recorded in writing be less than one month and shall also be liable to fine which may extend to five hundred rupees).

<sup>1</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>2</sup> These words were substituted for the words “outside Greater Bombay” by Bom Act 56 of 1959, Sec. 3, Schedule.

<sup>3</sup> Subs by Maharashtra Act No XXIX of 1970.

123. **Carrying weapon without authority.** Whoever not being a member of the armed forces of the Union and acting as such or a Police officer, goes armed with any sword, spear, bludgeon, gun or other offensive weapon or with any explosive or corrosive substance in any street or public place unless so authorised by lawful authority, shall be liable to be disarmed by any Police officer, and the weapon or substance so seized shall be forfeited to the State Government, unless redeemed within two months by payment of such fine not exceeding five hundred rupees as the Commissioner or the District Magistrate in areas under their respective charges imposes.

124. **Possession of property of which no satisfactory account can be given.** Whoever has in his possession or conveys in any manner, or offers for sale or pawn, anything which there is reason to believe is stolen property or property fraudulently obtained, shall, if he fails to account for such possession or to act to the satisfaction of the Magistrate, on conviction, be punished with imprisonment for a term which may extend to three months or with fine <sup>1</sup>[which may extend to one year but shall not except for reasons to be recorded in writing, be less than one month and shall also be liable to fine which may extend to five hundred rupees].

125. **Taking spirits into public hospital or into barracks or on boards or vessels of war.** Whoever-

- (a) takes or introduces, or attempts to take or introduce, any spirits or spirituous or fermented liquors or intoxicating drugs or preparations into any public hospital without the permission of a medical officer of such hospital, or
- (b) not being amenable to the Articles of War takes or introduces, or attempts to take or introduce, any such spirits, liquors, drugs or preparations not belonging to any person above the rank of a non commissioned officer,
  - (i) into the barracks or buildings occupied by the troops composing the Garrison of Bombay into any military barracks, guard-rooms or encampments, or
  - (ii) on board or alongside of any vessel of war belonging to Government, shall, on conviction, be punished with imprisonment for a term which may extend to two months, or with fine which may extend to one hundred rupees, or with both and such spirits, liquor, drugs or preparations and the vessels containing the same, shall be forfeited to the State Government.

### Gujarat Amendment:

In Sec. 125 in Cl. (b), in sub-clause (i), omit from “into” to “Bombay or”.<sup>2</sup>

126. **Omission by pawn-brokers, etc. to report, to Police possession or tender of property suspected to be stolen.** Whoever, being a pawn-broker, dealer in second-hand property, or worker in metals, or reasonably believed by the Commissioner, or District Superintendent in the areas under their respective charges to be such a person, and having received from a police officer written or printed information that the possession of any property suspected to have been transferred by any offence mentioned in Sec. 410 of the Indian Penal Code (XLV of 1860) or by any offence punishable under Sec. 417, 418, 419 or 420 of the said Code, is found in possession or thereafter comes into the possession, or has an offer either by way of sale, pawn, exchange, or for custody, alteration or otherwise howsoever, made to him, of property answering description contained in such

<sup>1</sup> Ibid.

<sup>2</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

information, shall, unless-

- (i) he forthwith gives information to the Commissioner, or the District Superintendent, as the case may be, or at a Police station of such possession or offer and takes all reasonable means to ascertain and to give information as aforesaid of the name and address of the person from whom the possession or offer was received, or
- (ii) the property being, as an article of common wearing apparel or otherwise, incapable of identification from the written or printed information given, has been in no way concealed after the receipt of such information, on conviction, be punished with fine which may extend to fifty rupees in respect of each such article of property so in his possession or offered to him.

127. **Melting, etc. of such property.** Whoever, having received such information as is referred to in Sec. 126, alters, melts, defaces or puts away or causes or suffers to be altered, melted, defaced or put away without the previous permission of the Police, any such property, shall, on proof that the same was stolen property within the meaning of Sec. 410 of the Indian Penal Code (XLV) of 1860), or property in respect of which any offence punishable under Sec. 417, 418, 419 or 420 of the said Code has been committed, be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

128. **Taking pledge from child.** Whoever takes from any child not appearing to be above the age of fourteen years any article whatsoever as a pawn pledge or security for any sum of money lent, advanced or delivered to such child, or without the knowledge and consent of the owner of the article buys from such child any article whatsoever, shall, on conviction, be punished with fine which may extend to one hundred rupees.

129. **Permission of disorderly conduct at places of public amusement etc.** Whoever, being the keeper of any place of public amusement or entertainment, knowingly permits drunkenness or other disorderly behaviour or any gaming whatsoever, in such place, shall, on conviction be punished with a fine which may extend to one hundred rupees.

130. **Cheating at games.** Whoever, by any fraud or unlawful device or malpractice in playing at or with cards, dice or other game, or in taking a part in the stakes or wagers, or in betting on the sides or bands of the players, or in wagering on the event of any game, sports, pastime or exercise, wins from any other person, for himself or any other or others, any sum of money or valuable thing, shall be deemed guilty of cheating within the meaning of Sec. 415 of the Indian Penal Code (XLV of 1960), and be liable to punishment accordingly.

<sup>1</sup>[130-A. **Gambling in street.** Whoever assembles with others or joins any assembly in a street assembled for the purpose of gaming or wagering shall, on conviction, be punished with fine which may extend to fifty rupees or may be released after a due admonition].

131. **Penalty for contravening rules. etc., under Sec. 33.** <sup>2</sup>[ <sup>3</sup>Save as provided in Sec. 131-A, whoever]-

- (a) contravenes any rules or order made under Sec. 33 or any of the conditions of a licence issued under such rule or order, or

<sup>1</sup> Section 130-A was Inserted by Bom Act 20 of 1953, Sec. 15.

<sup>2</sup> This portion was substituted for the original by Bom Act 21 of 1954, Sec. 3. Second Schedule.

<sup>3</sup> These word were substituted for the words "whoever" by Bom Act 28 of 1954, Sec. 10.

- (b) abets the commission of any offence under Cl. (a) shall, on conviction be punished]-
- (i) if the rule or order under which the said licence was issued was made under Cls. (d), (g), (h), (i), sub-clauses (i) and (ii) of Cl. (r) or Cl. (u) of sub-section (1) of Sec. 35, with imprisonment for a term, which may extend to eight days or with fine which may extend to fifty rupees or with both;
  - (ii) if the rule or order contravened was made under Cl. (x) of sub-section (1) of Sec. 33, with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both;
  - (iii) if the rule or order contravened or the rule or order under which the said licence was issued was made under Cls. (n) and (o) of sub-section (1) of Sec. 33 with fine which may extend to two hundred rupees;
  - (iv) if the rule or order contravened was made under Cl. (b) of sub-section (1) of Sec. 33 and prohibits the sale or exposure for sale of any goods on any street or portion thereof so as to cause obstruction to traffic or inconvenience to the public-
    - (a) for the first offence with imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees or with both; and
    - (b) for a subsequent offence with imprisonment for a term which may extend to six months and with fine which may extend to five hundred rupees; and
  - (v) if the rule or order contravened or the rule or order under which the said licence was issued <sup>1</sup>[was made under any clause of sub-section (1) of Sec. 33 and for the contravention of which no penalty is provided under this section], with fine which may extend to fifty rupees.

<sup>2</sup>[131-A. <sup>3</sup>***Penalty for not obtaining licence in respect of place of public entertainment or certificate of registration in respect of eating house or for not renewing such licence or certificate within prescribed period***]. (1) Whoever fails to obtain a licence under this Act in respect of a place of public entertainment <sup>4</sup>[or a certificate of registration thereunder in respect of any eating house, or to renew the licence or the certificate as the case may be] within the prescribed period shall, on conviction, be punished with a fine which may extend to Rs.50.

(2) Any court trying any such offence shall in addition direct that the person keeping the place of public entertainment <sup>5</sup>[or the eating house] in respect of which the offence has been committed shall close such place <sup>6</sup>[or eating house] until he obtains a licence or fresh licence <sup>7</sup>[or a certificate of registration or fresh registration certificate] as the case may be, in respect thereof and thereupon such person shall forthwith comply with such direction.

(3) If the person fails to comply with any such direction he shall, on conviction be punished with imprisonment for a term which may extend to one month or with fine which may extend to Rs. 200 or with both.

<sup>1</sup> Substituted by Maharashtra Act 30 of 1962, Sec. 2.

<sup>2</sup> Section 131-A was inserted by Bom Act 28 of 1954, Sec. 11.

<sup>3</sup> Subs by Maharashtra Act 11 of 1969.

<sup>4</sup> Ins by *ibid*.

<sup>5</sup> Ins by *ibid*.

<sup>6</sup> Ins by *ibid*.

<sup>7</sup> Subs by *ibid*.

(4) Without prejudice to any action taken under sub-section (3) on the failure of such person to comply with the direction of the Court any Police officer authorized by the Commissioner or the District Magistrate, as the case may be by an order in writing, may take or cause to be taken such steps and use or cause to be used such force as may, in the opinion of such officer, be reasonably necessary for securing compliance, with the Courts' directions].

<sup>1</sup>[131-AA. **Liability of licensee of place of public entertainment for acts of servants.** The holder of a licence, granted under this Act, in respect of a place of public entertainment shall be responsible, as well as the actual offender, for any offence under Sec. 131 committed by his servant or other agent acting with his express or implied permission on his behalf, as if he himself had committed the same, unless he establishes that all due and reasonable precautions were taken by him to prevent the commission of such offence].

132. **Penalty for disobedience or order under Sec. 31.** Whoever contravenes, disobeys, opposes, or fails to conform to an order under Sec. 31 requiring him to vacate any premises, shall, on conviction be punished with imprisonment which may extend to three months or with fine which may extend to five hundred rupees or with both.

133. **Penalty for contravening rules etc., under Sec. 35.** Whoever contravenes any rule made under Sec. 35 shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees or with both.

134. **Penalty for contravention of rule, etc. under Sec. 36.** Whoever, contravenes, disobeys, opposes or fails to conform to any order given by a Police officer under Sec. 36 shall, on conviction, be punished with fine which may extend to two hundred rupees;

135. **Penalty for contravention of rule or directions under Sec. 37, 39 or 40.** Whoever disobeys an order lawfully made from Sec. 37, 39 or 40 or abets the disobedience thereof shall, on conviction, be punished,

(i) if the order disobeyed or of which the disobedience was abetted was made under sub-section (1) of Sec. 37 or under Sec. 39, or Sec. 40, with imprisonment for a term which may extend to one year but shall not except for reasons to be recorded in writing, be less than four months and shall also be liable to fine, and

(ii) if the said order was made under sub-section (2) of Sec. 37 with imprisonment for a term which may extend to one month or with fine which may extend to one hundred rupees, and

(iii) if the said order was made under sub-section (3) of Sec. 37, with fine which may extend to one hundred rupees.

136. **Penalty for contravening rules etc., made under Sec. 38.** Whoever disobeys any direction lawfully made under Sec. 38 or abets the disobedience thereof shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

137. **Penalty for contravening rules, etc. made under Sec., 41.** Whoever opposes or fails to conform to any direction given by the Police under Sec. 41, shall on conviction be punished with fine which

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<sup>1</sup> Section 131AA was inserted by Bom Act 1 of 1956, See 14.

may extend to two hundred rupees.

<sup>1</sup>[\* \* \* \* \*]

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<sup>1</sup> Section 138 of the Act has been deleted, vide Maharashtra Act 28 of 1964.

## Gujarat Amendment:

In the principal Act, section 138 shall be deleted.<sup>1</sup>

139. **Penalty for contravention of a regulation made, under Sec. 43.** Whoever contravenes or abets the contravention of any regulation, made under Sec. 43 shall on conviction be punished with imprisonment which may extend to three months or with fine which may extend to two hundred rupees, or with both.
140. **Penalty for contravening directions under Sec. 68.** Whoever opposes, or fails to conform to any direction given by the Police under Sec. 68 or abets the opposition or failure to do so shall, on conviction, be punished with fine which may extend to fifty rupees.
141. **Penalty for contravention of directions under Secs. 55, 56<sup>2</sup>[57, 57-A or 63-AA].** Whoever opposes or disobeys or fails to conform to any direction issued under Secs. 55, 56<sup>3</sup>[57, 57-A or 63-AA] or abets opposition to or disobedience of any such direction shall, on conviction, be punished with imprisonment which may extend to one year but shall not, except for reasons to be recorded in writing, be less than four months, and shall also be liable to fine.
- <sup>3</sup>[142. **Penalty for entering without permission area from which a person is directed to remove himself or overstaying when permitted to, return temporarily.** Without prejudice to the power to arrest and remove a person in the circumstances and in the manner provided in Sec. 62, any person who-
- (a) in contravention of a direction issued to him under Secs. 55, 56,<sup>4</sup>[57, 57-A or 63-AA] enters or returns without permission to the area, or any district or districts or part thereof, from which he was directed to remove himself;
  - (b) enters or returns to any such area or district aforesaid or part thereof with permission granted under sub-section (2) of Sec. 62, but fails, contrary to the provisions thereof, to remove himself outside such area at the expiry of the temporary period for which he was permitted to enter or return or on the earlier revocation of such permission, or having removed himself at the expiry of such temporary period or on revocation of the permission, enters or returns thereafter without fresh permission, shall on conviction, be punished with imprisonment for a term which may extend to two years, but shall not, except for reasons to be recorded in writing, be less than six months, and shall also be liable to fine
143. **Penalty for failure in surrender in accordance with sub-section (3) of Sec. 3.** Whoever fails without sufficient cause to surrender in accordance with sub-section (3) of Sec. 63 shall, on conviction, be punished with imprisonment which may extend to two years and shall also be liable to fine.
- <sup>5</sup>[143.A. **Penalty, for contravention of orders under Sec. 63.A.** (1) Whoever contravenes any order made under sub-section (1) of Sec. 63-A shall on Conviction, be punished with imprisonment for a term which may extend to one year or with fine or with both.

<sup>1</sup> Vide Gujarat Act 16 of 1978, Sec 16, wef 3-3-1978.

<sup>2</sup> Subs by Mah Act XV of 1976, Sec. 4 and Sch (wef 13-2-1976).

<sup>3</sup> This section was substituted for the original by Bom 37 of 1959, Sec. 4.

<sup>4</sup> Subs by Mah Act XV of 1976. Sec. 4 and Sch (wef 13-2-1976).

<sup>5</sup> Section 143-A was inserted by Bom 20 of 1953, Sec. 16.

(2) Whoever contravenes any order made under sub-section (2) of Sec. 63-A shall, on conviction, be punished with imprisonment for a term which may extend to three years or with fine or with both.]

<sup>1</sup>[143-B. ***Dangerous performances.*** (1) No person shall without the previous permission of the Commissioner or the District Magistrate as the case may be, and except in accordance with any conditions subject to which such permission is granted, hold or give, in any place which is likely to cause an assembly of persons, any performance in which or during which he buries himself underground, or seals himself in any room or receptacle or other thing, in such manner as to prevent all access of air to him and for such time as would ordinarily result in death by suffocation.

(2) If any person contravenes or attempts to contravene the provisions of this section, he shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine, or with both.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, the offence punishable under this section shall be cognizable.]

144. ***Neglect or refusal to serve as Special Police officer.*** Any person who having been appointed a Special Police officer under Sec. 21 shall without sufficient cause neglect or refuse to serve as such or to obey any lawful order or direction that may be given to him for the performance of his duties shall, on conviction, be punished with fine which may extend to fifty rupees.

145. ***Penalty for making false statement, etc., and for misconduct of Police officers.*** (1) Any person who makes a false statement or uses a false document for the purpose of obtaining employment or release from employment as a Police officer, or

(2) any Police officer who-

(a) is guilty of cowardice, or

(b) resigns his office or withdraws himself from duties thereof in contravention of Sec. 29, or

(c) is guilty of any wilful breach or neglect of any provision of law or of any rule or order which as such Police officer, it is his duty to observe or obey, or

(d) is guilty of any violation of duty for which no punishment is expressly provided by any other law in force, shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to one hundred rupees or with both.

(3) Consequence of failure to return to duty after leave. A Police officer who being absent on leave fails, without reasonable cause to report himself for duty on the expiration of such leave shall, for the purpose of Cl. (b) of subsection (2), be deemed to withdraw himself from the duties of his office within the meaning of Sec. 29.

146. ***Penalty failure to deliver up certificate of appointment or of office or other article.*** Any Police officer, who wilfully neglects or refuses to deliver up his certificate of appointment or of office or any other article, in accordance with the provision of sub-section (1) of Sec. 30 shall, on conviction, be punished with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

147. ***Vexatious entry, search, arrest, etc., by Police officer.*** Any Police officer who-

<sup>1</sup> Section 143-B was inserted by Bom 35 of 1959, Sec. 31.



- (a) without lawful authority or reasonable cause enters or searches or causes to be entered or searched, any building, vessel, tent or place;
- (b) vexatiously and unnecessarily seizes the property of any person;
- (c) vexatiously and unnecessarily detains, searches or arrests any person;
- (d) offers any unnecessary personal violence to any person in his custody; or
- (e) holds out any threat or promise not warranted by law; shall for every such offence, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees, or with both.

148. **Penalty for vexatious delay in forwarding a person arrested.** Any Police officer who vexatiously and unnecessarily delays forwarding any person arrested to a Magistrate or to any other authority to whom he is legally bound to forward such person, shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

149. **Penalty for opposing or not complying with direction given under Sec. 70.** Whoever opposes or fails forthwith to comply with any reasonable direction given by a Magistrate or a Police officer under Sec.70 or abets opposition thereto or failure to comply therewith, shall on conviction be punished with imprisonment for a term which may extend to one year but shall not except for reasons to be recorded in writing be less than four months and shall also be liable to fine.

<sup>1</sup>[149-A. **Penalty for unauthorised use of Police uniform.** If any person not being a member of the Police Force, wears, without the permission of an officer authorised by the State Government in this behalf by a general special order for any area in the (State of Maharashtra) the uniform of the Police Force or any dress having the appearance or bearing any of the distinctive marks of that uniform, he shall, on conviction, be punished fine which may extend to two hundred rupees.

#### **Gujarat Amendment:**

In Sec. 149-A, for “State of Bombay” substitute “State of Gujarat”.<sup>2</sup>

150. **Jurisdiction when offender is a Police officer above the rank of constable.** Offences against this Act, when the accused person or anyone of the accused persons is a Police officer above the rank of a constable, shall not be cognizable except by a Presidency Magistrate or a Magistrate not lower than second class Magistrate.

#### **Gujarat Amendment:**

In Sec. 150, omit “a Presidency Magistrate, or”.<sup>3</sup>

151. **Prosecution for certain offences against the Act to be in the discretion of the Police.** It will not except in obedience to a rule or order made by the State Government or by the competent authority, be incumbent on the Police to prosecute for an offence punishable under Sec. 117, 119, 131, 134, 137, 139, 140 or 144 when such offence has not occasioned serious mischief and has been promptly desisted from on warning given.

<sup>1</sup>[151-A. **Summary disposal of certain cases.** <sup>2</sup>[A Court taking cognizance of an offence punishable

<sup>1</sup> This section was inserted by Bom 6 of 1955, Sec. 3.

<sup>2</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>3</sup> Ibid.

under Sec. 117, or under paragraph (iii), (iv) or (v) of Sec. 131], may state upon the summons to be served on the accused person that he may, by a specified date prior to the hearing of the charge plead guilty to the charge by registered letter and remit to the Court such sum, not exceeding twenty-five rupees, as the Court may specify.

(2) Where an accused person pleads guilty and remits the sum specified no further proceeding in respect of to offence shall be taken against him).

152. **Prosecution for offences under other enactments not affected.** Nothing in this Act shall be construed to prevent any person from being prosecuted and punished under any other enactment for any offence made punishable by this Act or from being prosecuted and punished under this Act for an offence punishable under any other enactment:

Provided that all such cases shall be subject to the provisions of Sec. 403 of the Code of Criminal Procedure, 1898 (V of 1898).

## CHAPTER VIII

### Miscellaneous

153. **Disposal of fees, rewards, etc.** All fees paid for licences or written permission issued under this Act, and all Sums paid for the service of processes by Police officers and all rewards, forfeitures and penalties or shares thereof which are by law payable to Police officers as informers shall, save in so far as any such fees or sums belong under the provisions of any enactment in force to any local authority, be credited to the State Government:

Provided that with the sanction of the State Government, or under any rule made by the State Government in that behalf, the whole or any portion of any such reward, forfeiture or penalty may for special services, be paid to a Police officer, or be divided amongst two or more Police officers.

154. **No municipal or other rates to be payable by State Government on Police buildings.** No municipal or other local rates shall be payable by the State Government on account of the occupation or use of any house or place <sup>3</sup>[by members of the Police Force for the convenient performance of their duties in any area of the Bombay area of the State of Maharashtra excluding Greater Bombay and also in such of the remaining areas of the [State of Maharashtra] as may be notified by the State Government in the official Gazette].

### Gujarat Amendment:

In Sec. 154 for “in any area of the pre-Reorganisation State of Bombay, excluding the transferred territories and Greater Bombay” substitute “in the Bombay area of the State of Gujarat” and “State of Bombay” substitute “State of Gujarat”.<sup>4</sup>

155. **Method of proving orders and notifications.** Any order or notification published or issued by the

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<sup>1</sup> This section was inserted by Bom 1 of 1955, Sec. 17.

<sup>2</sup> Subs by Maharashtra Act 28 of 1964.

<sup>3</sup> This portion was substituted for the words beginning with the words “in any” and ending with the words “their duties” by Bom 34 of 1959, Sec. 33.

<sup>4</sup> Vide Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

State Government or by a Magistrate or officer under any provision of this Act, and the due publication or issue thereof may be proved by the production of a copy thereof in the Official Gazette, or of a copy thereof signed by such Magistrate, or officer, and by him certified to be a true copy of an original published or issued according to the provisions of the section of the Act applicable thereto.

156. **Rules and orders not invalidated by defect of form or irregularity in procedure.** No rule, order, direction, adjudication, inquiry or notification made or published, and no act done under any provision of this Act, or of any rule made under this Act, or in substantial conformity to the same, shall be deemed illegal, void, invalid or insufficient by reason of any defect of form or any irregularity of procedure.
157. **Presumption in prosecutions for contravention of directions issued under Sec. 55, 56, [57, 57-A or 63-AA].** Notwithstanding anything contained in any law for the time being in force, in a prosecution for an, offence for the contravention of a direction issued under Sec. 45, 56, [57 or 63-AA] on the production of an authentic copy of the order, it shall, until the contrary is proved and the burden of proving which shall lie on the accused, be presumed-
- (a) that the order was made by the authority competent under this Act to make it ;
  - (b) that the authority making the order was satisfied that the grounds on or the purpose for which it was made existed, and that it was necessary to make the same; and
  - (c) that the order was otherwise valid and in conformity with the provisions of this Act.
- <sup>1</sup>[157-A. **Officers holding charge of or succeeding to vacancies competent to exercise powers.** Whenever in consequence of the office of a Commissioner, Magistrate or Police officer becoming vacant, any officer holds charge of the post of such Commissioner, Magistrate, or Police officer or succeeds, either temporarily or permanently, to his office, such officer shall be competent to exercise all the powers and perform all the duties respectively conferred and imposed by this Act on such Commissioner, Magistrate or Police officer, as the case may be].
158. **Forfeiture of bond entered into by person permitted to enter or return to the area from which he was directed to remove himself.** If any person permitted under sub-section (1) of Sec.63 fails to observe any condition imposed under the said sub-section or in the bond entered into by him under sub-section (2) of the said section his bond shall be forfeited and any person bound thereby shall pay the penalty thereof or show cause to the satisfaction of the court why such penalty should not be paid.
159. **No Magistrate or Police officer to be liable to penalty or damage for act done in good faith in pursuance of duty.** <sup>2</sup>[No Revenue Commissioner, Magistrate] or Police officer shall be liable to any penalty or to payment of damages on account of an act done in good faith, in pursuance or intended pursuance or any duty imposed or any authority conferred on him by any provision of this Act or any other law for the time being in force or any rule, order or direction made or given therein.
160. **No public servant liable as aforesaid for giving effect in good faith to any rule, order or direction issued with apparent authority.** No public servant or person duly appointed or authorised shall be liable to any penalty or to payment of any damages for giving effect in good faith to any such order or direction issued with apparent authority by the State Government or by a person empowered in that behalf under this Act or any rule, order or direction made or given thereunder.

<sup>1</sup> Section 157-A was inserted by Bom Act 57 of 1954, Sec. 5.

<sup>2</sup> These words were substituted for the words "No Magistrate" by Bom 8 of 1958, Sec. 3, Schedule.

161. ***Suits or prosecutions in respect of acts done under colour of duty as aforesaid not to be entertained or to be dismissed if not instituted***<sup>1</sup>*[within prescribed period]*. (1) In any case of alleged offence by the <sup>2</sup>[Revenue Commissioner] a Magistrate, Police officer or other person, or of a wrong alleged to have been done by such <sup>2</sup>[Revenue Commissioner], Magistrate, Police officer or other person, by any act done under colour or in excess of any such duty or authority as aforesaid, or wherein, it shall appear to the court that the offence or wrong if committed or done was of the character aforesaid, the prosecution suit shall not be entertained, or shall be dismissed, if instituted, more than six months after the date of the act complained of:

<sup>3</sup>[Provided that, any such prosecution against Police officer may be entertained by the court, if instituted with the previous sanction of the State Government within two years from the date of the offence].

(2) In suits as aforesaid one month's notice of suit to be given with sufficient description of wrong complained of. In this case of an intended suit on account of such a wrong as aforesaid, the person intending to sue shall be bound to give to the alleged wrong doer one month's notice at least of the intended suit with sufficient description of the wrong complained of, failing which such suit shall be dismissed.

(3) **Plaint to set forth service of notice and tender of amend.** The plaintiff shall set forth that a notice as aforesaid has been served on the defendant and the date of such service, and shall state whether any, and if any, what tender of amends has been made by the defendant. A copy of the said notice shall be annexed to the plaint endorsed or accompanied with a declaration by the plaintiff of the time and manner of service thereof.

### **Gujarat Amendment:**

In Sec. 161, in sub-section (1), and in the marginal note thereto, for the words "six months" the words "one year" shall be substituted.

162. ***Licences and written permissions to specify conditions, etc., and to be signed.*** (1) Any licence or written permission granted under the provisions of this Act shall specify the period and locality for which and the conditions and restrictions subject to which, the same is granted, and shall be given under the signature of the competent authority and such fee than be charged therefor as is prescribed by any rule under this Act in that behalf.

(2) ***Revocation of licences, etc.*** Any licence or written permission granted under this Act may at any time be suspended or revoked by the competent authority, if any of its conditions or restrictions is infringed or evaded by the person to whom it has been granted, or if such person is convicted of any offence in any matter to which such licence or permission relates.

(3) ***When licence revoked, etc., grantee to be deemed without licence.*** When any such licence or written permission is suspended or revoked, or when the period for which the same was granted has expired, the person to whom the same was granted shall for all purposes of this Act, be deemed to be without a licence or written permission. until the order for suspending or revoking

<sup>1</sup> Subs by Maharashtra Act 45 of 1967.

<sup>2</sup> Subs by Maharashtra Act II of 1960.

<sup>3</sup> Added by Maharashtra Act 45 of 1967.

the same is cancelled, or until the same is renewed, as the case may be.

- (4) ***Grantee to produce licence, etc., when required.*** Every person to whom any such licence or written permission has been granted, shall, while the same remains in force, at all reasonable time, produce the same, if so required by a Police officer.

***Explanation.*** For the purpose of this section any such infringement or evasion by, or conviction of, a servant or other agent acting on behalf of the person to whom the licence or written permission has been granted shall be deemed to be infringement or evasion by, or as the case may be, conviction of the person to whom such licence or written permission has been granted.

163. ***Public notices how to be given.*** Any public notice required to be given under any of the provisions of this Act shall be in writing under the signature of a competent authority and shall be published in the locality to be affected thereby, by affixing copies thereof in conspicuous public places, or by proclaiming the same with beat of drums, or by advertising the same in such local newspapers- English or regional language or Hindi- as the said authority may deem fit, or by any two or more of these means and by any other means it may think suitable.
164. ***Consent. etc., of a competent authority may be proved by writing under his signature.*** Whenever under this Act, the doing or the omitting to do anything or the validity of anything depends upon the consent, approval, declaration, opinion or satisfaction of a competent authority, a written document signed by a competent authority purporting to convey or set forth such consent, approval, declaration, opinion or satisfaction shall be sufficient evidence thereof.
165. ***Signature on notices, etc., may be stamped.*** Every licence, written permission, notice, or other document, not being a summons or warrant or search warrant, required by this Act, or by any rule thereunder, to bear the signature of the Commissioner, shall be deemed to be properly signed if it bears a facsimile of his signature stamped thereon.
166. ***Persons interested may apply to State Government to annul, reverse or alter any rule or order.***  
(1) In the case of any rule or order made by the State Government under an authority conferred by this Act and requiring the public or a particular class of persons to perform some duty or act, or to conduct or order themselves or those under their control in a manner therein described, it shall be competent to any person interested to apply to the State Government by a memorial given to a Secretary to the State Government to annul, reverse, or alter the rule or order aforesaid on the ground of its being unlawful, oppressive or unreasonable.
- (2) When a suit shall lie to the District Court to declare a rule or order unlawful. After such an application as aforesaid and the rejection thereof wholly or in part or after the lapse of four months without an answer to such application or a decision thereon published by the State Government, it shall be competent to the person interested and deeming the rule or order contrary to law to institute a suit against the State for a declaration that the rule or order is unlawful either wholly or in part. The decision in such suit shall be subject to appeal ; and a rule or order finally adjudged to be unlawful shall by the State Government be annulled or reversed or so altered as to make it conformable to law.

167. ***Repeal and saving.*** (1) The enactments <sup>1</sup>[specified in Part I of Schedule I] are hereby repealed:  
Provided that-
- (i) all rules prescribed, appointments made, powers conferred, orders made or passed, directions

<sup>1</sup> These words and figures were substituted for the words "specified in Schedule I" by Bom 34 of 1959, Sec 34 (1).

and certificates issued, consent, permit, permission or licences given, summons, or warrants issued or served, persons arrested or detained or discharged on bail or bond, search warrants issued, bond forfeited, penalty incurred under any such enactment shall, so far as they are consistent with this Act, be deemed to have been respectively prescribed, made, conferred, given, passed, served, arrested, detained, discharged, forfeited and incurred thereunder.

(ii) all references made in any Bombay Act to any of the Acts hereby repealed shall be read as if made to the corresponding provision of this Act.

(2) Nothing in sub-section (1) shall be deemed to affect-

- (a) the validity, invalidity, effect or consequence of any thing done or suffered to be done in an area before the date on which the provisions of this Act come into force in such area;
- (b) any right, privilege, obligation or liability already acquired, accrued or incurred before such date;
- (c) any penalty, forfeiture or punishment incurred or inflicted in respect of any act before such date;
- (d) any investigation, legal proceeding or remedy in respect of such right, privilege, obligation, liability, penalty, forfeiture or punishment;
- (e) any legal proceeding pending in any Court or before any officer on the aforesaid date or anything done or suffered to be done in the course of such proceedings; and any such proceeding or any appeal or revisional proceedings arising out of such proceeding shall be instituted, continued, or disposed of, as the case may be, as if this Act had not come into force.

<sup>1</sup>[(2-A) On the commencement of this Act in that part of the State to which it is extended by the Bombay Police (Extension and Amendment) Act, 1959 (Bom. (XXXIV of 1959), the laws specified in Part II of Schedule I and in Schedule IV, as in force in that part of the State, shall stand repealed:

Provided that such repeal shall not affect-

- (a) the previous operation, of any law so repealed, or anything duly done or suffered thereunder; or
- (b) the right, privilege, obligation or liability acquired, accrued or incurred under any law so repealed; or,
- (c) any penalty incurred in respect of anything done against any law so repealed; and any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability or penalty as aforesaid may be instituted, continued or enforced, and any such penalty may be imposed, as if this Act had not come into force in the relevant part of the State:

Provided further, that subject to the preceding proviso, anything done or any action taken (including any rule prescribed, appointment made, power conferred, order made or passed, direction or certificate issued, consent permit, permission or licence given, summons or warrant issued or served, person arrested or detained or discharged on bail or bond, search warrant issued or bond forfeited) under any such repealed law shall, in so far as it is not inconsistent with this Act, be deemed to have been done or taken under the corresponding provision of this Act, as if the said provisions were in force in the relevant part of the State when such thing was done or such action was taken, and shall continue in force accordingly, unless and until superseded by anything done or any action taken under this Act:

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<sup>1</sup> Sub-section (2-A) was inserted by Bom 34 or 1959, Sec. 34 (2).

Provided also that any reference to any such repealed law, or to any provision thereof, in any law for the time being in force, shall be construed as a reference to this Act or to the corresponding provision thereof].

- (3) The enactment specified in Schedule III in its application to the <sup>1</sup>[pre-Reorganisation State of Bombay, excluding the transferred territories,] is hereby amended to the extent and in the manner mentioned in the fourth column thereof.

168. <sup>2</sup>[*Saving of laws relating to Village Police and Reserve Police*]. Nothing in this Act shall affect the provisions of the Bombay Village Police Act, 1867 (Bom. VIII of 1867), [that Act as in force in the Kutch area of the State of Bombay or of the Saurashtra Village Police Ordinance, 1949 (Sau. Ord. XXXII of 1949), or any law corresponding thereto in force in any part of the State] or any enactment which may be made in regard to the reserve Police.

#### SCHEDULE I

[See Sec. 3 and 5 and <sup>3</sup>[sub-section (1) and (2-A)] of Sec. 167.]

Year 1	No. 2	Short title 3
1890 1902 1942	IV IV XVI	<sup>4</sup> [Part I The Bombay District Police Act, 1890. The City of Bombay Police Act, 1902. The Police Force (control and Direction) Act, 1949.]
1861	V	<sup>5</sup> [Part II The Police Act, 1861, as in force in the Vidarbha region of the State of Bombay.

<sup>1</sup> These words were substituted for the words "State of Bombay" by the Bombay Adaptation or Law (State and Concurrent Subjects) Order, 1956.

<sup>2</sup> This marginal note was substituted for original by Bom 34 of 1959, Sec. 35 (2).

<sup>3</sup> These words, brackets, figures and letters were substituted for the word, brackets and figure "sub-section (1)" by Bom 34 of 1959, Sec. 36(1).

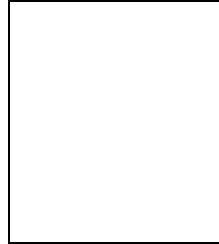
<sup>4</sup> The sub-heading "Part I" was inserted, *ibid*, Sec 36(3).

<sup>5</sup> The sub-heading and entries were added, *ibid*, Sec. 36(2).

1890	IV	The District Police Act, 1890, as in force in the Kutch area of the State of Bombay.
1329F	X	The Hyderabad District Police Act.
1954	XVIII	The Saurashtra Police Act, 1954.]

## SCHEDULE II

(See Sec. 14)



CERTIFICATE  
OF  
APPOINTMENT IN THE POLICE FORCE  
No. ....  
STATE OF MAHARASHTRA

Certificate of Appointment issued under (photograph to be affixed in the Police Act of 1951.....the case of <sup>1</sup>[Inspectors and] .....Sub-Inspectors.)  
Act V of 1861.

Mr. ....has been appointed as ..... and is invested with the powers, functions and privileges of a Police officer under the Bombay Police Act of 1951.  
Act V of 1861.

<sup>2</sup>[Greater Bombay/ Area under the charge of the Commissioner for .....]  
In the Bombay District Police.  
Railway Police.  
On the .....day of .....19.....

Signature.....

Designation.....

## SCHEDULE III

[See sub-section (3) of Sec. 167]

<sup>1</sup> The words "Inspectors and" were deleted by Bom 20 of 1953, Sec. 17 and inserted again by Bom 8 of 1954, Sec. 12.

<sup>2</sup> These words were substituted for the words "Greater Bombay" by Bom 56 of 1959, Sec. 3, Schedule.



Year 1	No. 2	Short title 3	Amendment 4
1898	V	Code of Criminal Procedure	In Cl. (a) of sub-section (2) of Sec. I of the Act – (i) for the words “towns of Calcutta, Madras and Bombay”, the words “towns of Calcutta and Madras” shall be substituted. (ii) for the words “towns of Calcutta and Bombay” the words “town of Calcutta” shall be substituted.

#### <sup>1</sup>SCHEDULE IV

[See sub-section (2-A) of Sec. 167]

Year	No.	Short title
1946	X	The Central Provinces and Berar Goondas Act, 1946.
1947	XVII	The Central Provinces and Berar Special Police Establishment Act, 1947.
1951	XXIX	The Hyderabad Public Security Measures Act, 1951.
1953	XII	The Punjab Security of the State Act, 1953, as extended to the Kutch area of the State of Bombay.
1955	XXV	The Saurashtra Gram Rakshak Dal Act, 1955.
1957	XXXVII	The Hyderabad Public Security Measures (Amendment) and Supplemental Provisions Act, 1957.]

<sup>1</sup> This Schedule was added by Bom 34 of 1959, sec. 37.