

Chapter 8

THE RECORD-OF-RIGHTS

Chapter XIV and Appendices VII and VIII of the Settlement Manual should be read in connection with this chapter. Appendix VII has been added in Part I of Chapter 6 of this Manual.

Part A—Record of Mutations

Paragraphs 279 to 282 of the Settlement Manual relate to the record of mutations.

Entry of Mutation

8.1. (1) The mutation Register is prescribed in Section 34(3) and 35 of the Land Revenue Act for the entry of every acquisition of any right of interest in an estate as a landowner, assignee or occupancy tenant, and under section 36 for disputed acquisition of other rights. The mutation register is not a part of the record of rights and its entries do not share in the presumption of truth attached to that record. All mutations of rights of ownership or occupancy including voluntary partitions, shall be entered by the patwari in the register when they are reported to him by the transferee as required by Section 35 of the Land Revenue Act, and if not so reported then so soon as they appear to have been acted upon. When he enters a mutation affecting the Shajra Nasb the patwari shall note in pencil the number of the mutation against the entry affected. If and when the mutation is sanctioned, he shall amend the Shajra Nasb in red ink in accordance with the mutation order.

(2) The provisions of sections 54, 107 and 123 of the Transfer of Property Act were made applicable in H.P. vide Deputy Secretary (Rev.) to the Govt. of H.P. letter No. 17-13/ 66 Rev. I, dated 6.1.1971 whereby registration of sale (S. 54) lease (S. 107) and gift (S. 123) have been made compulsory. In the case of acquisition of rights of such nature, the patwari will enter mutation on the basis of registration memorandum or registered deed.

(3) Other acquisitions of rights or interests based upon oral transactions i.e. without registration shall be entered in the register of mutation by the patwari when reported to him under section 35 of the Act ibid i.e. acquisitions through Release, Settlement, Mortgage with possession, Exchange and creation of tenancy etc. but subject to the provisions contained in section 118 of the H.P. Tenancy and Land Reforms Act, 1972 and section 3 of the H.P. Transfer of Land (Regulation) Act, 1968 read with paras 18.24, 18.25, 18.26 and 18.29 infra.

(4) The Revenue Officer shall attest such mutations based upon oral transactions in the presence of the parties in accordance with the provisions of section 38 of H.P. Land Revenue Act, 1954 in case the acquisitions are otherwise legal.

(5) *Some times the patwaris do not enter mutations based upon oral transactions referred to in sub para (3) above. Even if the mutations are entered, the Revenue Officers generally refuse to attest such mutations on the plea that the registration was not done, which was compulsory under Registration Act. This is an incorrect interpretation of law. Mutations either based upon oral transaction or registered deed must conform to the provisions of section 38 of the H.P. Land Revenue Act subject to the provisions of Deputy Secretary Revenue to the H.P. Govt. letter No. 17-13/66, Rev. I Dated 6.1.1971, section 118 of the H.P. Tenancy and Land Reforms Act, 1972 and section 3 of H.P. Transfer of Land Regulation Act, 1968 read with paras 18.24, 18.25, 18.26 and 18.29 infra. Revenue Officers are not competent to refuse mutations*

based upon oral transactions under the law, if the acquisitions conform to the provisions of section 38 ibid but subject to the exceptions mentioned above.

It was held in Gulab Singh another V Smt. Dilbag and others (ILR Himachal Series, 1987 pages 536 to 542) by the H. P. High Court that oral exchange was valid because all the provisions of the Transfer of Property Act were not applicable in Tehsil Kullu which was then State of Punjab in 1963. By virtue of Notification No. 1605 R(C 55-69) 5.5.54 (sale) S.107 (lease) and S.123 (gift) were made applicable in the State of Punjab.

An oral exchange was thus permissible in Tehsil Kullu because section 118 of the Transfer of Property Act was not made applicable to the State of Punjab—an exchange could be effected between the parties and it was not necessary to effect the same by a registered document only.

Reference of Jamabandi

8.2. The patwari should, whenever a mutation case is entered in the register, note the serial number and nature of the transfer in pencil in the column of remarks of the Jamabandi opposite to the appropriate holding. If and when the mutation is sanctioned he should make the above note in red ink. Serial number of Fard Badar entries should also be similarly noted and in order to distinguish them from the serial number of mutations the word 'Badar' should be added. Fard Badar entries will thus be referred to as 1 Badar, 2 Badar, etc. etc.

Register of Mutations

8.3. The form of the register of mutations with instructions as to the entries to be made in it is given below:-

Register of Mutations of Estate

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Entry in last Jamabandi which it is proposed to correct						New entry which it is proposed to substitute						Nature and date of transfer with price in case of sale and amount of mortgage debt in case of mortgage or redemption	Mutation fee due	Reports and orders
Serial No. of entry	No. of holding in last Jamabandi	Taraf or well	Owner, with description	Cultivator, with description	Detail of fields, areas and soils	Revenue or rent	No. of holding in new Jamabandi	Owner with description	Cultivator, with description	Detail of fields, areas and soils	Revenue or rent			

**Division of
Tehsil for
inspection work.**

8.4. (a) For inspection work and the attestation of mutations in records, the estates of each Tehsil are divided yearly between the Tehsildar and the Naib-Tehsildar. The portions of the Tehsil allotted should be changed every year on October 1st so that the responsibility of the Tehsildar for the whole of his charge may not be impaired. It is within the discretion of the Deputy Commissioner to postpone redistribution for special reasons, such as the prompt disposal of pending revenue work.

General instructions.

(b) (i) The mutation register consists of a counterfoil and foil. The former is the patwari's copy of the register, the latter is removed after orders have been passed, and sent to the Tehsil to be filed with the Jamabandi. The patwari should make entries in columns 1 to 13 of the counterfoil, but he should make no entry in column 15. Having thus filled up columns 1 to 13 in the counterfoil, the patwari will copy these entries in the foil. He will then write his report in column 15 of the foil. *He will briefly state the facts explaining the change, the names of the person or the persons on whose information the entry is based, and he will require the Lambardar concerned or Pradhan or Up-Pradhan of concerned Gram Panchayat to attest the entry by seal or signature. He is, however, strictly forbidden to take the thumb mark or the signature of any of the parties to the transaction anywhere on the mutation sheet.*

(ii) The Field Kanungo must attest by personal examination of the papers concerned every entry made by the patwari in the counterfoil and foil, noting briefly that he has done so with date below the report in the latter. He must sign the entries in both counterfoil and foil.

(iii) The Revenue Officer should carefully compare the entries in counterfoil and foil, and must write his order on the latter. He should see that all entries in the mutation sheets as well as his order thereon are neatly and legibly written. "In the case of mutations relating to...

(viii) All mutations, not attested within a period of one year are shown in the quarterly business returns of revenue work for each district by Tehsils. A list will be prepared in each Tehsil and supplied to the Tehsildar or Naib-Tehsildar concerned so that special steps may be taken to ensure that all such mutations will be attested at once, if possible. Any mutations, remaining unattested by the end of the next quarter, will be entered in a special list, with reasons showing why each mutation could not be attested. These lists will be forwarded to the Collector for information, and if any mutation in such a list remains unattested by the end of the quarter then next ensuing, a full report with an explanation will be submitted to the Commissioner for any action that he may think fit to take.

It should be clearly understood that the duty of a Revenue Officer attesting a mutation is confined to ascertaining whether a fact does or does not exist.

**Corrections
previous to
attestation.**

8.5. The entries in columns 9 to 12 should correspond in every case with the order passed upon the mutation in question. Where owing to a mistake or otherwise they do not do so they should be altered so as to bring them into correspondence with that order. Any alterations required for this purpose should be made as far as possible at the time of passing the order but if not then made, they can be subsequently made at any time before the mutations in which they are to be made are incorporated in the Jamabandi. No permission, nor proceedings in review under Section 16 of the Himachal Pradesh Land Revenue Act will be necessary for the purpose of making such alterations, and any Revenue Officer before whom the mutations in which they are to be made are produced, will be at liberty to make them. All alterations made in accordance with this direction will be made in red ink and will be signed by the officer making them.

**Corrections
after attestation**

8.6. At any time before a mutation is incorporated in a Jamabandi, any clerical or arithmetical mistake inadvertently made in the order passed upon it can be corrected without obtaining permission for reviewing that order. The corrections of such mistakes can be made by the Revenue Officer who attested the mutations in which the mistakes have occurred or by his successor or by a superior officer. In making such corrections the original order should not be altered; but a separate notice should be recorded briefly describing the corrections made. It will not be necessary to hear the parties concerned in connection with such corrections. The Fard Badar procedure described in paragraph 8.2. *infra* may be used for the purpose of avoiding the entry of a further mutation of inheritance in cases wherein entering the original mutation some of the holdings of the deceased were inadvertently omitted. In such cases the patwari will merely state in his report in the Fard Badar that such and such holdings have been omitted from such and such mutations and the Revenue Officer's order upon this report will merely state that the order already passed upon the mutation in question should be considered applicable to these holdings.

**Numbering of
entries**

8.7. The numbering of the entries in the mutation register should be continuous for the term of settlement. A new register should be opened only when the old register has been used up. Both the counterfoil and foil sheets are numbered in the press. Only one sheet will not necessarily be used for each case. If the transfer involves lengthy entitles, e.g. in the case of more than one holding being affected, one or more additional sheets may be used, but the same number should be used for the counterfoil and foil. The foils should not be detached from the register until orders are finally passed by the Revenue Officer, who should take them off and make them over to the office Kanungo, stitching the forms together with stout thread.

**Transfer of
portion of field**

8.8. (i) If a part or a share of a field has been transferred and separate possession has been taken, draw on the back of the mutation sheet and its counterfoil a map of the whole field and show as a sub-number the part transferred. No partition proceedings are necessary. The Field Kanungo must attest the correctness of the map after personal examination of the field on the spot and satisfy himself as to the fact of possession. He must also see that the field as drawn on the back of the mutation sheet is an exact copy of the field as shown in the Shajra Kishtwar. Further details in regard to the preparation, check and use of these maps on mutation sheets are given in Chapter 6 of this Manual. The Attesting Officer must defer the passing of an order sanctioning a mutation if he finds that these instructions have not been carried out exactly.

In the case of a transaction based on a registered deed the Revenue Officer should immediately on receipt of the registration memorandum from the Registration Office direct the Kanungo and the patwari to proceed to the spot and prepare a Tatima Shajra, if one is necessary, on the basis of the material given in the registration memorandum and that alone. On the completion of the Tatima Shajra it shall be submitted by the Kanungo to the Revenue Officer.

Transfer of Portion of Khasra Number in Planning Area

(ii) In Planning area, declared as such under the H.P. Town and Country Planning Act, 1977, if the transaction is based upon registered deed and a sub-division of any khasra number is involved, the patwari and Field kanungo shall prepare the tatima shajras on the spot in the manner prescribed in sub-para (I) above irrespective of any size of the plot and irrespective of the fact that the registration was done in violaion of section 16 of the Act ibid. Such a transfer is not void.

Under Section 35 (5) of the H.P. Land Revenue Act, 1954, the Revenue Officer is duty bound to inquire into the correctness of all the entries in the register of mutations and into, all acquisitions coming to his knowledge which are required to be reported to the patwari under section 35 (I) of the Act. The Revenue Officer shall attest the mutation in such cases if separate possession has been taken and the transaction is not otherwise void. The above principles are also applicable in the cases of mutations based upon oral transactions either in planning area or elsewhere.

Partition

8.9. Final orders in partition cases will be entered if parition is sanctioned and the order has been carried into effect. Such entries will be attested in the same way as other mutations.

Lambardari Cases

8.10. Lambardari cases will not be entered in the mutation register.

Land hypothecated to Government

8.11. Mortgages of land hypothecated to Government for repayment of Takavi or for other purposes will be entered in the mutation register.

Orders of Courts

8.12. In entering orders of Courts the patwari should quote in red ink in column 15 of the foil and counterfoil the following particulars:—

(1) Name of Court; (2) names of parties; (3) abstract of decree.

Consideration money

8.13. When a sale, mortgage or lease embraces land in more than one estate and no specific portion of the sale or mortgage money or rent is ascribed to the land entered in the mutation, the portion of the consideration money to be entered in the mutation shall be in proportion to the share of the total area transferred that is dealt with in the mutation.

Special instructions

8.14. The instructions laid down in Paragraph 8.65 infra as to entries in the Jamabandi apply to the register of mutations subject to the following orders:-

(1) Columns 2 and 8—In a case of transfer of ownership it will usually be enough to enter the Jamabandi number. In a case of transfer of tenant's holdings, enter both the Jamabandi and the Khatauni number thus:-

J. 10
Kh. 23

(2) Reasonable abbreviations may be allowed in making entries in columns 4,5, 9 and 10 in cases affecting a number of holdings more especially where there are a large number of co-shares and only one or two of them transfer. The names of the co-shares transferring and their shares should be entered in detail and the names of others may be omitted with a note:— "Baki Indraj Jamabandi Badastur," Similarly in cases of transfer of ownership where the tenancy of the

holding is unaffected, the only entry that need be made in columns 5 and 10 is "Badastur".

- (3) Columns 6 and 11.—Except where to follow a different course may be unavoidable, the field number and area will in both columns be those shown in the last Jamabandi. If the mutation relates to a whole holding this can be noted and the total area given without any detail of field numbers.
- (4) Column 8.—This column will be filled up when the new Jamabandi has been prepared.
- (5) Columns 9 and 10.—If a sharer in a joint holding sells or mortgages the whole or a definite fraction of his share, the name of the transferee will be shown in column 9; but if he sells or mortgages certain fields and gives possession to the transferee, the latter's name must only be shown in column 10, a brief explanation of his occupancy being noted in column 15.
- (6) Column 14.—After a mutation has been disposed of the mutation fee due should be entered in both foil and counterfoil by the Revenue Officer himself.
- (7) Columns 5 and 10.—These columns used to show the tenant, but as the corresponding column of the Jamabandi show the cultivator they have been altered to correspond.

The Scope of Mutation

8.15. The status of a landowner or tenant cannot be altered except:-

- (a) by agreement of all the parties interested, or
- (b) in consequence of a decree or order which is binding upon them, or
- (c) in accordance with facts proved or admitted to have occurred. (Section 38 of the Himachal Pradesh Land Revenue Act, 1954).

Cases of Inheritance

8.16. In cases of inheritance a summary inquiry into title is necessary on the lines indicated in 5 P.R. of 1912. Where it is claimed that property devolves by reason of a will this should be treated as a case of succession by inheritance and the inquiry will include an inquiry into the validity of the will (1934 LLT).

Inheritance cases of Muslims

8.17. The inheritance cases of deceased Muslims will be governed by the personal law of Muslims and the Revenue Officer shall attest the mutations of succession strictly in accordance with their personal law applicable to them.

Succession of Deceased Parsis and Indian Christians

8.18. The succession of deceased Parsis and Indian Christians shall be governed by the laws applicable to these communities under Indian Succession Act, 1925.

Inheritance in Tribal Areas of H.P

8.19. Since the Hindu Succession Act, 1956 does not apply to the tribal areas in H.P., the inheritance in tribal areas is governed by the Customary Law. The Customary Law is generally found in Village Administration Papers, Rewaje-a-amm and other documents like Settlement Reports etc. The Revenue Officers shall decide the inheritance cases strictly in accordance with the customary law applicable in these areas.

Succession of deceased Hindus

8.20. The succession of Hindus dying interstate shall be governed under the Hindu Succession Act, 1956. This Act does not apply to the members of any Scheduled Tribe within the meaning of Section (25) of Article 366 of Constitution of India unless the Central Govt. by notification in the official Gazette otherwise directs.

Devolution of interest in Mitakshara coparcenary property

8.21. When a male Hindu dies after the commencement of the Hindu Succession Act, 1956, having at the time of his death an interest in a Mitakshara coparcenary property, his interest in the property shall devolve by survivorship upon the surviving members of the coparcenary and not in accordance with the Hindu Succession Act as laid down under Section 6 of the Act subject to proviso laid down. Section 6 reads as follows:-

“When a male Hindu dies after the commencement of this Act having at the time of his death an interest in a *Mitakshara* coparcenary property, his interest in the property shall devolve by survivorship upon the surviving members of the coparcenary and not in accordance with this Act:

Provided that, if the deceased had left him surviving a female relative specified in Class I of the Schedule or a male relative specified in that class who claims through such female relative, the interest of the deceased in the Mitakshara coparcenary property shall devolve by testamentary or interstate succession, as the case may be, under this Act and not by survivorship.

Explanation 1.—For the purpose of this section, the interest of a Hindu *Mitakshara* coparcener shall be deemed to be the share in the property that would have been allotted to him if a partition of the property had taken place immediately before his death, irrespective of whether he was entitled to claim partition or not.

Explanation 2.—Nothing contained in the proviso to this section shall be construed as enabling a person who has separated himself from the coparcenary before the death of the deceased or any of his heirs to claim on intestate a share in the interest referred to therein.”

Since the Mitakshara law is a bit complicated, the Revenue Officers are required to acquaint themselves with the knowledge of the law and decide succession cases of deceased coparceners in the Mitakshara coparcenary after through study of the law on the subject.

Succession to Right of Tenancy

8.22. The succession of right of tenancy is governed under Section-45 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972. Section-45 is reproduced below:—

“When a tenant in any land dies, the right shall devolve—

- (a) on his male lineal descendants, if any, in the male line of descent; and
- (b) failing such descendants, on his widow, if any, until she dies or remarries or abandons the land or is under the provisions of this Act ejected therefrom; and
- (c) failing such descendants and widow, on his widowed mother, if any, until she dies or remarries or abandons the land or is under the provisions of this Act ejected therefrom; and
- (d) failing such descendants and widow or widowed mother or, if the deceased tenant left a widow or widowed mother, then when her interest terminates under Clause (b) or (c) of this section, on his male collateral relatives in the male line of descent from the common ancestor of the deceased tenant and those relatives.

Mutation of Devolution of Tenancy Rights

8.23. No entry showing the person to be a tenant by succession under Section-45 or otherwise will be made in the record except through mutation (Rule 10-A of the Himachal Pradesh Tenancy and Land Reforms Rules, 1975).

**Control on
transfer of land
to non-agricul-
turists**

8.24. (a) Under Sub-Section (1) of Section 118 of the H.P. Tenancy and Land Reforms Act, 1972 but save as otherwise provided in Chapter-XI of the Act, no transfer (including sale in execution of a decree of the Civil Court or for recovery of arrears of land revenue) by way of sale, gift, exchange, lease, mortgage with possession or creation of a tenancy shall be valid in favour of a person who is not an agriculturist. Sub-Section (1) of Section 118 of Himachal Pradesh Tenancy and Land Reforms Act shall not apply to the transfer of any land by any person in favour of:

- (a) a landless labourer; or
- (b) a landless person belonging to a scheduled caste or a Scheduled Tribe, or
- (c) a Village artisan; or
- (d) a landless person carrying on an allied pursuit, or
- (e) the State Govt. or
- (f) a co-operative society or a bank; or
- (g) a person who has become non-agriculturist on account of the acquisition of his land for an public purpose under the Land Acquisition Act, 1894 or
- (h) a non-agriculturist who purchases or intends to purchase land for the construction of house or shop, or purchases a built up house or shop from the H.P. State Housing Board established under the Himachal Pradesh Housing Board Act, 1972, or from the Development Authorities constituted under the Himachal Pradesh Town and Country Planning Act, 1977, or from any other statutory corporation set up under any State or Central enactment; or
- (i) a non-agriculturist with the permission of State Govt. for the purpose that may be prescribed.

(b) Definition of land.

For the purpose of Section 118, "land" has been defined as under:-

"Land" shall include:-

- i) Land, the classification of which has changed or has been caused to be changed to "Gair-mumkin", "Gair mumkin Makan" or any other Gair mumkin land by whatever name called, during the past five years countable from the date of entry in the revenue records to this effect;
- ii) Land recorded as "Gair mumkin", "Gair Mumkin Makan" or any other Gair mumkin land, by whatever name called in the revenue records, except constructed area which is not subservient to agriculture and
- iii) Land which is a site of a building in a town or a village and is occupied or let out not for agricultural purposes or purposes subservient to agriculture."

(c) Definition of agriculturist

An agriculturist has been defined under section 2(2) of the H.P. Tenancy and Land Reforms Act, 1972 to mean a person who cultivates land personally in an estate situated in Himachal Pradesh.

(d) Definition of "to cultivate personally"

"To cultivate personally" has been defined under section 2(4) of the Act to mean

- (i) by one's own account;
- (ii) by one's own labour;
- (iii) by the labour of any member of one's family; or
- (iv) under the personal supervision of one-self or any member of one's family by hired labour or by servant on wages payable in cash.

Transfer void	8.25. Any transfer of land in contravention of Section 118 of the Himachal Pradesh Tenancy and Land Reforms Act 1972 is void. The Revenue Officer shall refuse mutation of such void transfer.
Procedure after Refusal of Mutation	8.26. (1) It shall be the duty of a Revenue Officer after rejection of mutation to ensure that the land transferred in contravention of Sub-Section (I) of Section 118 together with structures, buildings or other attachments, if any is vested in the State Govt. free from all encumbrances. The Revenue Officer shall take necessary steps to mutate the land in favour of the State Govt. He shall report the matter to the District Collector for taking possession of the land and structures etc. The District Collector shall take immediate necessary steps to take possession after giving an opportunity of being heard to the effected parties.
Duty of the Patwari	(2) If the patwari making an entry in the Register of Mutations under Sub-Section(3) of Section 35 of the Land Revenue Act has reason to believe that the transaction contravenes the provisions of Section 118 of Himachal Pradesh Tenancy and Land Reforms Act, 1972, he shall make a note of all the relevant facts in the report column of the said register.
Duty of the Revenue Officer	(3) Every Revenue Officer conducting an enquiry under Sub-Section (4) of Section 35 of Himachal Pradesh Land Revenue Act shall examine every transaction into which he has to enquire under the provisions of that Sub-Section whether a note has been made by the patwari under the preceding sub-paragraph or not in order to make certain that no right which would be invalid under Section 118 of the Act is entered in the Jamabandi.
Purchase of Agricultural Land by a non-agriculturist	8.27. Purchase of agricultural land by a non-agriculturist with or without permission of the State Govt. under Section 118 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 does not confer a title of an agriculturist on the purchaser and such a purchaser shall continue to be a non-agriculturist even thereafter under Section 118 <i>ibid</i> . In order to ensure that this express provision of law is not infringed by any-body in the State wittingly or unwittingly, it is necessary that while sanctioning mutation in respect of such purchases of land, the Revenue Officer should invariably record in mutation that despite of such purchase of agricultural land and his subsequent cultivation of such land, the purchaser will continue to be treated as a non-agriculturist. Similarly a note to this fact shall always be recorded in the Remarks Column of Jamabandis concerning the lands by the patwari and which will be checked by Field Kanungo (Himachal Pradesh Govt. letter No. 2f(2)-7/87-Vol-III, dated 27th September, 1989).
Regulation of transfer of land in the tribal areas of Himachal Pradesh	8.28. The Himachal Pradesh Transfer of Land (Regulation) Act, 1968 regulates the transfer of land in the tribal areas of Himachal Pradesh. Under Sub-Section (1) of Section 3 of the said Act no person belonging to any Scheduled Tribe shall transfer his interest in any land in the tribal areas declared as such by way of sale, mortgage, lease, gift or otherwise to any person not belonging to such tribe except with the previous permission in writing of the Deputy Commissioner:

Provided that nothing in this Sub-Section shall apply to any transfer:-

- (a) by way of lease of a building on rent;

(b) by way of mortgage, for securing loan, to any co-operative land mortgage bank or any co-operative society, all or a majority of the members of which are persons belonging to any scheduled tribe;

(c) by acquisition by the State Government under the Land Acquisition Act, 1894.

Disallowment of Mutation 8.29. Every transfer of interest in land made in contravention of the provisions of Sub-Section (I) of Section 3 of the Act *ibid* shall be void. The Revenue Officer shall refuse Mutation of such void transfers.

Ejectment 8.30. Section 5 of the Act *ibid* prescribes the procedure of ejectment of the person found in possession of land in contravention of Section 3 of the Act. Section 5 runs as under:-

“(1) If, as a result of transfer of any land in contravention of the provisions of Section 3, any person, other than a person belonging to any scheduled tribe, is found to be in possession of that land, the Deputy Commissioner or any other officer authorised in writing by the State govt. in this behalf, may, without prejudice to the provisions of Section 9, serve a notice upon such person requiring him to vacate the land within ninety days from the date of service of the notice and to remove any building, fence or any other structure which may have been raised on such land.

Provided that if there are any crops actually growing on the land at the time of *such requisition*, such person shall be entitled to retain possession of the land until such crops are harvested.

(2) Every person to whom a requisition is made under Sub-Section (1) shall be bound to comply with such requisition.”

Right, title or interest held by persons belonging to Scheduled Tribes in land not to be attached 8.31. Under Section 8 of the Act no right, title or interest held by a person belonging to a Scheduled Tribe in any land shall be liable to be attached or sold in execution of any decree or order in favour of any person not belonging to a Scheduled Tribe of any Court except when the amount due under such decree or order is due to the State Government or to any Co-operative Land Mortgage Bank or Co-operative Society.

Duty of a Revenue Officer 8.32. The Revenue Officer shall take necessary steps to eject the person found in possession of land in contravention of Section 3 of the Act *ibid*. He shall not attach or sell such land in execution of any decree or order held by a person belonging to Scheduled Tribe in favour of any person not belonging to any Scheduled Tribe in contravention of Section 8 of the Act.

Cases of Transfers 8.33. Subject to the provisions contained in Section 118 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 and Section 3 of the H.P. Transfer of Land (Regulation) Act, 1968 read with para 8.24 to 8.29 *supra*, in the case of transfers by gift, sale or mortgage, the patwari should ascertain whether a deed has been written. If so, he should inspect it, and take a note of its nature, the names of the parties, the dates of execution and registration if it has been registered, and any other necessary particulars. A brief note of these matters should be entered in Column 15 of the counterfoil of the register. The patwari must not retain the deed in his possession, or take a copy of it. Attesting officers should satisfy themselves that the particulars as to deeds of transfer given in the patwari's mutations reports are correct.

Affidavit by a person for acquisition of land 8.34. Where transfer of land by way of sale, gift exchange, lease or mortgage with possession of which registration is not compulsory under the Registration, Act 1908 (16 of 1908) in favour of a person, who is not an agriculturist as defined in the Act or comes within the exemptions given in Clauses (a) to (g) of Sub-section (2) of Section 118, such a person intending to secure a transfer of land in his favour shall swear an affidavit before the Revenue Officer, attesting the mutation, to the effect that he is eligible to

secure transfer of land in his favour being an agriculturist. The Revenue Officer shall satisfy himself about the contents of an affidavit by the aforementioned person and shall attest a mutation only if that person is found to be an eligible person. (Rule 38(1) of the H.P. Tenancy and L.R. Rules 1975).

Disallowment of transfers not yet carried into effect

8.35. *Except in cases of entries of collateral mortgages in column 12 of the Jamabandi, the patwari should also ascertain whether possession has passed and a mutation of transfer by gift, sale or mortgage or otherwise should not be attested (a). If the transfer is in contravention of Section 118 of H.P. Tenancy and L.R. Act 1972 and Section 3 of the HP Transfer of Land (Regulation) Act 1968 (b) In transfer cases which are not contrary to Section 118 and Section 3 of the of the Acts ibid mutation shall not be attested unless possession is proved to have actually passed or the parties all agree before the attesting Officer that possession has passed or the parties have all agreed in a registered document that possession has passed. Except in cases of void transfers under the law a mutation should not be refused merely because it is claimed that the alienor has no right by custom or statute to make such an alienation. Such a transaction is 'fact' until it is set aside in due course of law.*

In the case of a mutation in which it is a condition of the transfer that possession be given after certain harvests, if the alienor is prepared to give and the alienee to receive possession on the prescribed date, attestation should be postponed until such time and mutation then allowed on evidence that possession has been taken. But, in the event of any dispute between the parties, the attesting officer should refuse the mutation on the ground that no possession has been given leaving it to the patwari to make a fresh entry in the mutation register when the Khasra Girdawari shows that the change has taken place, or on the report of one on the parties to the effect.

Mortgages

8.36. (i) All mortgages and sub-mortgages, whether collateral or with possession, whether contracted for long or short periods, and whether by deed or by oral agreement, should be entered in the mutation register. Redemptions of such mortgages should also be entered. Cases of increase of mortgage money on a previous mortgage though the other conditions of the mortgage are maintained unchanged, should be entered in the mutation register.

Mutation of Redemption of 'Mustajri' mortgages

(ii) In cases of mutations of redemption of 'Mustajri' mortgages the patwari should note in column 13 of this register that amount of mortgage money discharged by referring to the original entry of the mutation of mortgage. If the register containing the original entry is not in his possession, he should get the necessary information from the office or the Sadar Kanungo. If for any reason such information cannot be secured without undue delay, the amount admitted by the parties or proved should be accepted.

Care should be taken to ascertain how the mortgaged land is cultivated, how the produce or rent is enjoyed and by whom the revenue is paid. Other conditions of mortgages, need not be particularly enquired into, but the amount of the mortgage debt as admitted by the mortgagor should be noted in column 13 of the mutation register.

Collateral Mortgages

(iii) Collateral mortgages though entered in the register are only noted in the remarks column of the Jamabandi. Nor is the amount of the mortgage debt shown in the Jamabandi.

Second Mortgage

(iv) Land which is already subject to mortgage is sometimes mortgaged by the mortgagor to a third person on the condition that the previous mortgage will be redeemed by the latter. This second mortgage should be treated as a collateral mortgage and subsequently a new mortgage with possession should be sanctioned when the land is redeemed by the second mortgagee. A sub-mortgage, accompanied by transfer of possession is treated as a mortgage with possession.

Mutation of hypothecation

(v) Mutation should be entered up in respect of land hypothecated to Government by way of security for repayment of an advance. If a second loan is taken on the same security it is not necessary to enter up a new mutation.

Mortgage of rights of cultivation

(vi) Transactions relating to mortgage of rights of cultivation by owners, involve the acquisition of a right and as such mutation should be entered in such cases.

Settlement:

8.36-A Settlement has been defined under section 2 (24) of Indian Stamp Act, 1889 as under:-

"Settlement" means any non-testamentary disposition, in writing, of movable or immovable property made—

(a) in consideration of marriage,

(b) for the purpose of distributing property of the settlor among his family or those for whom he desires to provide, or for the purpose of providing for some person dependent on him, or

(c) for any religious or charitable purpose ; and includes an agreement in writing to make such a disposition and, where any such disposition has not been made in writing, any instrument recording, whether by way of declaration of trust or otherwise the terms of any such disposition.

If an owner of land transfers his holding or its part to all or any of the members of his family for the purpose of distributing his property either contracted by registered deed or by oral agreement and reported to the patwari under sections 35 of the H.P. Land Revenue Act, the mutation shall be attested by the Revenue Officer. It is immaterial whether the registration is effected or not. Mutation of such nature can be attested on the basis of oral agreement under section 38 of the H.P. Land Revenue Act, 1954 if otherwise legal.

Release

8.36-B "Release" is an instrument whereby a person renounces a claim upon another person or against any specified property. It predicates the existence of a claim upon another person or against any specified property, which claim the person, executing the document renounces by a deed of release.

The person in whose favour there can be a release, must possess a pre-existing right or interest in the property. A release, in law, may be effected either for consideration or for no consideration. Where one co-owner of a property, by a deed, relinquishes his right to possession and his title in favour of the other co-owner, such deed is a release deed.

Subject to the provisions contained under section 118 of the H.P. Tenancy and Land Reforms Act, 1972 and section 3 of the H.P. Transfer of land (Regulation) Act, 1968 the mutation of release shall be attested by the Revenue Officer if a co-owner relinquishes his whole or any part of his claim(share) in favour of one or other co-owner in a joint ownership either based upon registered deed or oral agreement entered by the patwari on the basis of report made to him under section 35 of H.P. Land Revenue Act. As mentioned under para 8.1 (5) supra, the Revenue Officer cannot compel the parties to execute registered deed of Release and Settlement. Mutation can be attested on the basis of oral agreement under section 38 of the H.P. Land Revenue Act, 1954, if otherwise legal.

Disallowment of transfer of a specific khasra number or its share in a joint holding by a co-sharer

8.37. A Co-sharer in a joint holding, cannot transfer by way of sale, gift, mortgage or otherwise specific khasra number or its share which is not in his possession. The Revenue officer shall refuse mutation of such nature.

It has been held by F.C. Punjab in Mohinder Singh and others versus Jaswant Kaur and another (LLT 1972 pages-20-21) that the co-sharers may effect sale in respect of the whole or part of his share in the joint holding. He may effect sale in respect of a particular area, which is in his exclusive possession, subject to the consideration that the sale is not effected in respect of area in excess of his share. But he cannot transfer a specific Khasra number from joint holding which is not in his possession.

Cases of which mutation orders must-show whether the transfer includes a share in the shamlat

8.38. (a) Some Shamlat lands have been vested in the State Government under Section 3 of the H.P. Village Common Lands Vesting and Utilization Act, 1974, but certain categories of Shamlat lands have been exempted from vestment. Such Shamlat lands can be transferred by the owners of such lands or the landowners may transfer their shares in shamlat by sale, gift etc. alongwith other lands.

(b) As regards transfers by sale, gift, mortgage or exchange, it is necessary to show whether a share of the Shamlat is transferred with the land and the following instructions should therefore be observed on this subject:—

- (1) In cases of sale, gift or mortgage the mutation order should always state whether a share of the Shamlat is included in the transfer. In cases of exchange the Shamlat is seldom excluded from the transfer and nothing should therefore be said about it except where it is excluded when the fact that it is excluded should be mentioned in the mutation order.
- (2) If a deed of transfer by sale, gift, mortgage or exchange does not specifically mention that a share of Shamlat is transferred with the land it should be presumed that the Shamlat is not transferred.
- (3) Where a mutation of inheritance, sale, gift, or mortgage covers a share of the Shamlat, the Shamlat Khata should be entered in the mutation so that the mutation of the co-sharers in the Shamlat may be correctly entered in the Jamabandi
- (4) When the mutation does not cover a share in the Shamlat then in column 9 of the mutation sheet and in the ownership column of the Jamabandi the new alienee shall be shown as Bila Hissa Shamlat or Malik Kabza so as to secure that at partition he shall not simply by being a Khewatdar receive a share of the Shamlat to which he has no title. The name of the person to whom the Shamlat appertaining to this new Khata belongs shall also be recorded in the column of ownership under that of the new owner with the title Hissadar Shamlat, and the Khata of the new holding shall always be incorporated in the Jamabandi immediately below the Khata of the holding from which it was taken.

In the case of owners (1) whose entire land in any estate has been acquired by Government without a share of the Shamlat, and (2) whose land has been partially acquired, the Revenue Officer shall give a direction in his order to the effect that a note showing the name of the owner and the area transferred together with the number of the relevant mutation, shall be recorded in the remarks column of the Jamabani. In the case of (1) this note will be recorded against the Khewat of Shamlat and in the case of (2) against the Khewat from which the land has been acquired. It should also be specifically stated in this note that the owner concerned will be entitled to a due share of the Shamlat at the time of partition.

- (5) When the mutation refers to a mortgage it is only necessary to show the mortgagee as Murtahin Mae Hissa Shamlat or Murtahin Billa Hissa Shamlat, as the case may be.
- (6) Appendix A is an example of the kind of entry which should be made in the mutation register when a share of the Shamlat is transferred. It is not intended that the whole of the Shamlat Khata, as it stands in the last Jamabandi, should be copied in the mutation register. The mutation of the share of the Shamlat should be dealt with as part of the same mutation proceeding as the transfer of the original holding, but it is a part in which any of the co-sharers of the Shamlat have a right to be heard, and a distinct order should be passed by the Revenue Officer whether the mutation of the Shamlat is sanctioned or not.

Formation of Allotable and Reserve Pools of Government Lands Vested in the State Government under H.P. Village Common Lands Vesting & Utilization Act 1974.

8.39. Entries of allotable pool and reserve pool of Government lands (previously Shamlat) after vestment under the H.P. Village Common Lands Vesting and Utilization Act, 1974, shall be made Khasra Number-wise in the Remarks Column of the present Jamabandi of concerned estate by the patwari. Such entries shall be attested and checked by Field Kanungo. At the time of preparation of next Jamabandi, two separate Khataunis shall be assigned to reach Allotable Pool and Reserve Pool in which respective Khasra Numbers shall be included.

No land from Reserve Pool shall be allotted in any manner or transferred to Allotable Pool without the prior approval of the State Government (H.P. Government letter No. 10-V/73-B-II, dated 18th November, 1989.)

Vesting of proprietary rights in Occupancy Tenants

8.40. Mutation of vestment of proprietary rights in occupancy tenants under Section 94 of the H.P. Tenancy and Land Reforms Act, 1972 shall be entered in the mutation register and decided by the AC 2nd grade after making a summary inquiry.

Procedure for conferment of proprietary rights on tenants covered by Sub-Section (3) of Section 104 of Himachal Pradesh Tenancy and Land Reforms Act, 1972.

8.41. All rights, title, interest in the tenancy land of landowners who have already under their personal cultivation 3 acres unirrigated or $1\frac{1}{2}$ acres irrigated land shall vest in the non-occupancy tenants with effect from the commencement of these rules. Similarly, the proprietary rights of tenancy land for the non-occupancy tenants on Government land shall also vest in the tenants from the commencement of these rules (Rule 27 of H.P. Tenancy Rules)

Attestation of Mutations

8.42. 1. The patwari will enter the mutation of ownership in the mutation register in favour of the non-occupancy tenants on whom proprietary rights are vested under Rule 27 and the Revenue Officer will attest the mutation in the presence of the parties.

2. Whether a part of a field number is vested in tenant, tatima shajra of such part will be prepared on the body of the mutation sheets (Rule 28 of Rules ibid).

Entry of bar of transfer of lands acquired under Section 104 of H.P. Tenancy and L.R. Act 1972 in revenue records

8.43. Whenever a tenant acquires propriety rights of relevant land under Section 104 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972, such land is not subject to transfer upto 10 years under Section 113 of the Act. The patwari shall record a note in the Remarks column of Jamabandi the date of conferment of propriety rights with number of mutation and the date on which the period of 10 years, shall be over for the purpose of Section 113. Such note shall be checked and attested by the Field Kanungo immediately after the sanction of mutation (H.P. Government letter No. Rev. 2-F(2)-7/87-Vol-III, dated 17th Sept., 1989).

Mutation based on order of resumption under Rule 24 of H.P. Tenancy and Land Reforms Rules, 1975

8.44. The order of the Land Reforms Officer passed under Rule 24 shall be given effect to by way of mutation on the expiry of the period of limitation prescribed for appeal and revision in Section 114. There will be two mutations in each case, one for extinguishment of tenancy rights and the other for extinguishment of ownership rights of land in question. The mutation fee chargeable on these mutations will be the same as that for giving effect to a decree of a Civil Court (Rule 25).

Determination of dispute under Sub-Section (4) of Section 104

8.45. If there is a dispute regarding the entries of the land records, the Land Reforms Officer, in his capacity as an Assistant Collector of the First Grade, shall decide the dispute under Sub-Section (4) of Section 104 in accordance with the relevant provisions of the Punjab Land Revenue Act, 1887 (17 of 1887) or the Himachal Pradesh Land Revenue Act, 1954, (6 of 1954) as the case may be. The disputes of such cases will be determined on a summary inquiry on the files.

Where a tenancy is in a part of a field number tatima Shajra of that part will be prepared (Rule 29).

Mutation in Connection with consolidation of holdings

8.46. In respect of consolidation of holdings two mutations should be entered, namely one of 'Ishtarak' showing the separate holdings affected by the consolidation as the joint property of the proprietors of those holdings and the other of partition showing the area allotted to each owner or group of owners. No fee shall be charged on the first mutation. 'Ishtarak' nor on the second mutation 'Taqsim' relating to the entry of transfer of holdings between tenure holders on the analogy of the orders contained in paragraph 7 of Appendix XIV to the Settlement Manual.

Treatment of right of absentees

8.47. (1) Rules regarding the omission from the Jamabandi of the names of persons entered as Ghair-hazir or Ghair-kabiz or given in paragraph 281 of the Settlement Manual, Sub-Clauses (1) and (2), and should be carefully followed.

(2) When a right-holder, entered in the record of rights or annual record as ghair-hazir or ghair-kabiz has been heard of within seven years but has been so entered for more than twelve years, the patwari shall enter the case in his register of mutations and shall report it to the Revenue Officer.

(3) When a right-holder, entered in the record of rights or annual recorded whether he is not described therein as an absentee (ghair-hazir) or as out of possession (ghair-kabiz) has not been heard of for seven years by those who would naturally have heard of him if he had been alive, the officer attesting a mutation may (unless he sees reason to the contrary) presume that he is dead and pass orders on the case accordingly; but before ordering the omission of his name from the record of rights or annual record, such officer should satisfy himself that all reasonable endeavour has been made to ascertain whether the absentee is alive and to give him an opportunity of appearing.

(4) No new entry of any one as ghair-hazir should be made. A right-holder should not be entered as ghair-kabiz if he is himself in legal or constructive possession, as when he has put some one else in possession on his behalf, or the land is lying waste, or he is by reason of poverty unable to cultivate it. A familiar instance would be where a sepoy has left his land in his brother's possession while he is with his regiment. In such a case the sepoy should be entered as in possession of the land through his brother. An entry of ghair kabiz should not be made unless some other person than the right-holder is in adverse possession.

(5) No effect shall be given to any order (1) directing the omission of the name of a right-holder who has been entered as ghair-hazir or ghair-kabiz or (2) directing the entry of a right-holder as ghair-kabiz until such order has been confirmed by the Collector.

(6) The entry against a tenant-at-will of Bila Lagan Ba Waja Tussuwur Milkiyat is misleading and no

new entry of this description should be made, but when this entry exists it should not be altered except by mutation sanctioned by the Collector.

Escheats

8.48.

- (i) In mutation cases dealing with lands of deceased proprietors who have left no apparent legal or customary heirs or successors, the mutation should be disposed of by the Collector of the District.
- (ii) Where such land is occupied by persons including mortgagees who have been in cultivating possession of the land continuously for 30 years or more, and the possession has been recorded in Jamabandi, they should be given the option of acquiring proprietary rights on payment of a sum equal to 96 times the annual land revenue and cesses.
- (iii) When such land is occupied by any persons whose possession though less than 30 years' standing is recorded in Jamabandi, it should be offered to them at the market value if they are willing to purchase it.
- (iv) Where escheated land has been occupied by a tenant or tenants, the proprietary rights shall be conferred upon them under Section 94 or Section 104 of the H.P. Tenancy and Land Reforms Act, 1972, as the case may be.
- (v) If the land is unoccupied, the nearest collaterals (not being legal heirs) of original owner of the land if proved, should be given the option of purchasing it at its market value.
- (vi) In case there are no occupants or in case the occupants or proved collaterals are unwilling to purchase the land on the conditions stated above, the land should be put to auction and given to the highest bidder.
- (vii) In case of doubt on any point, the Deputy Commissioner may refer the case with his own opinion to the Financial Commissioner (Rev), H.P. for decision. The Financial Commissioner may pass such orders as he deems fit.
- (viii) The Financial Commissioner may at any time call for the record of the case pending before or disposed of by the Deputy Commissioner and pass such orders as he thinks fit.

Mutations resulting from assignments

8.49. Revenue assignments are entered after final orders have been passed.

The proceedings preliminary to orders creating or resuming assignments of land revenue, or continuing them to successors or transferees, are not entered in the mutation registers, but are recorded in separate files to which the Patwari has no access. Nevertheless, the Patwari's Jamabandi must contain accurate entries relating to all assignments, and the proper mutation fees must be levied. It is, therefore, necessary to instruct the patwari as to the entries to be made in each case, and to provide for the levy of the mutation fee due on the entry.

The following procedure should be adopted:—

When a final order is passed in any case of this class, it will be communicated by Parwana to the Tahsildar. This Parwana, after the usual recital of the substance of the order will direct the Tahsildar to correct the village papers accordingly. To this end, it will state the entries to be removed and those to be substituted in the annexed form:—

1	2	3	4	5	6		8	9	10
	Name and description of assignee	If land is assigned, details thereof, viz.					Amount of revenue assigned		
		Area of land assigned							
		Jamabandi No. of holding	Cultivated	Uncultivated	Total	Revenue assessed		If only cash revenue is assigned without specification of lands, state in this column the amount so assigned	Amount of Nazrana due annually from assignee
Entry to be corrected									
Entry to be substituted									
Date of order and by whom passed									

The Tehsildar will send the Parwana on receipt to the field Kanungo of the circle in which the case has occurred, directing him to transcribe the Parwana in red ink in the appropriate columns of the mutation register of the village concerned, attest the entry as a true copy, and return the Parwana with report endorsed to the Tahsildar. When the Kanungo has done this, the Patwari will incorporate the new entry in the next Jamabandi and also include in his next list of mutation fees the fee due on the entry.

Disposal of land vested in State Government under Sub-Section (2) of Section 104 of the H.P. Tenancy and L.R. Act, 1972.

8.50. (1) In case the landowner fails to bring under personal cultivation the land reserved by him under Clauses (i) and (ii) of Sub-Section (1) of Section 104 within one year from taking over the possession of the land, the Patwari shall make a report to the Land Reforms Officer of such failure. On receipt of such a report the Land Reforms Officer shall issue a notice to the landowner to show cause within fourteen days from the receipt of the notice as to why the land shall not vest in the State Government. On hearing the landowner, if the Land Reforms Officer comes to the conclusion that the landowner has failed to cultivate the land without sufficient cause then he shall pass an order in writing under Sub-Section (2) of Section 104 that such land vest in the State Government. The Land Reforms Officer may also order payment of amount to the landowner at rates prescribed in Sub-Section (2) of Section 104. He shall also take possession of the land on behalf of the State Government and shall cause to make entry in the revenue records to this effect.

(2) On vestment of the land in the State Government under Sub-Rule (1), the Land Reforms Officer shall summon the tenant from whom the landowner resumed the land for personal cultivation and shall give him an option and the first choice to acquire the proprietary rights of the land on payment of the amount at the rate prescribed in Sub-Section (2) of Section 104.

(3) In case the tenant agrees to acquire ownership rights of the land under Sub-Rule (2) he shall be asked to pay the amount in lump sum or in such number of six monthly instalment not exceeding ten during the period not exceeding five years from the date of order of the Land Reforms Officer. The Land Reforms Officer shall at the same time pass an order for the delivery of possession of the land to such person on payment of 1st instalment of the amount who acquires the proprietary rights under this Sub-Rule.

(4) In case the tenant does not exercise option under Sub-Rule (2) then the land will be allotted in the following order of preference on payment of 96 times the annual land revenue plus rates and cesses

chargeable thereon:-

- (a) to landless agricultural labourers;
- (b) to village artisans; and
- (c) to members of scheduled castes and scheduled tribes. (Rule 26 of the H.P. Tenancy & L.R. Rules 1975).

**Relinquishment
of land under
section 31**

8.51. (1) If a non-occupancy tenant wants to make a voluntary surrender of his tenancy land in favour of the Government under Section 31 of the Tenancy & L.R. Act, 1972, he shall apply to the Collector in Form LR 1. On receipt of the application, the Collector shall record the statement of the tenant and after having satisfied himself of the fact of voluntarily relinquishing, pass order that the tenant has voluntarily surrendered his tenancy land in favour of the Government. Thereafter, the Collector shall cause the taking over the possession of the land through the Tahsildar concerned in favour of the Government.

(2) On having taken over the possession of the tenancy land under Sub-Rule (1), the Collector shall cause the necessary entry to be made in the Land Records substituting the right of the Government on the relinquished tenancy in place of the tenant and shall take possession of the land on behalf of the State Government.

(3) The Collector shall sub-let the land to the landless agricultural labourers or to those tenants whose land holding shall fall short of one acre as a result of resumption of tenancy land by the landowners under Sub-Section (1) of Section 104. (Rule 12 of the H.P. Tenancy & L.R. Rules, 1975).

**Cases where no
mutations are
necessary**

8.52. With the following exceptions, no mutation rights can be incorporated in the Jamabandi until a revenue officer has sanctioned it by an order recorded in the mutation register. The Jamabandi entries concerning holdings in which mutations have occurred, but on which no order have been passed will remain unaltered (see also para 8.65 infra.) The only entries in the Jamabandi for the variation of which in subsequent records no mutation need be entered in the registers, are the following:-

- (i) The entries in columns 1-3 of the Jamabandi as given in para 8.65 infra.
- (ii) In column 4-
 - (a) the name or the father's name when it has been legally changed, but in such case the former name shall continue to be shown also preceded by the word 'alias' or 'formerly' (Urf),
 - (b) the military rank or civil title,
 - (c) the place of residence,
 - (d) the omission of the word 'minor' and of the name of the guardian under paragraph 8.65 (4) infra of the Jamabandi form,
 - (e) the recasting of the form of the details of internal shares without changing the shares.
- (iii) In column 5-undisputed entries relating to cultivation by an owner shown in column 4.
- (iv) The entries in column 6- "Well or other means of irrigation."
- (v) (a) Entries in columns 7 and 8 "field number" and "area" and "soil" resulting from map correction (Chapter 6 on Surveys) or from measurements in connection with alluvion and

diluvion or with fluctuating assessment,

(b) corrections in addition of the area, where the area of each field has been correctly shown, but the total has been wrongly added up.

- (vi) Undisputed entries in column 9, relating to rents of tenants at-will and entries made in pursuance of an order passed by the Revenue Officer.
- (vii) Entries in column 11 "Demand" provided that the variations are supported by an order by the Collector, or higher authority.
- (viii) Entries in column 12, "Remarks," relating to the matters specified in instructions relating to the column given in paragraph 8.65 (10) Infra, provided that new remarks shall be limited to such matters, and provided further that entries relating to the rights of mortgagors or mortgages or assignees of land revenue or the user of trees of grass shall not be varied without order being obtaining in the mutation register.
- (ix) Entries, in column 19 "Remarks" of the form of Jamabandi Abadi of particulars relating to cases of allotment of Government land required by the last sub-paragraph of paragraph 8.71 (19) infra.

Orders for the correction of clerical mistakes in records to be obtained on the Fard Badar

8.53. (a) Jamabandi entries not enumerated in preceding paragraph should not be varied in subsequent records without first obtaining orders for their variation on mutations entered for this purpose except where the variation merely consists in the removal of a clerical mistake that is to say, of a mistake which has been made in copying the entries of the Jamabandi into another or in incorporating a mutation in a Jamabandi and the correction of which does not involve the alteration of any mutation order. Subject to the exception noted below, orders for the correction of such mistakes in subsequent records should be obtained on the Fard Badar, the form of which is given below:-

1	2	3	4	5	6	7
Serial No.	No. of holding in last Jamabandi	No. of holding in new Jamabandi	Patwari's report	Field Kanungo's report	Naib Tehsildar/ Tehsildar's report	Orders of the collector

Certain-Corrections through Fard Badar forbidden and attestation of Fard Badar by the Collector etc.

(b) *Contested Corrections relating to right, title and interest, dimensions (Karu Kans), shares and calculation of an area of a kh. No. shall not be done by way of Fard Badar. Fard Badars shall only be attested by the Collector.*

Whenever a clerical mistake is detected in the current Jamabandi after it has been finally attested and filed, whether that mistake was originally made in that or any previous Jamabandi, the patwari should make the necessary entries about it in the first four columns of the Fard Badar. His report in the fourth column should be as brief as possible. For instance, if any field has been omitted by mistake from any

holding the report should merely state that such and such field has been omitted. The Field kanungo should, from time to time, examine the Fard Badar entries and enter his own report in column 5 of the Fard Badar. His report should also be as brief as possible and where he finds that he has nothing to add to the patwari's report, he should merely put his signature in this column. In reporting upon any Fard Badar entry, the Revenue Officer (Naib Tehsildar/Tehsildar) should see whether it actually relates to a clerical mistake which under the present instructions, should be dealt with in the Fard Badar, and if he finds that it relates to such a mistake, he should report the correction of the mistake in question in column 6 and the Collector shall attest the Fard Badar, otherwise he should report that the Fard Badar entry in question should be cancelled. It will not be necessary to hear the parties concerned in connection with the disposal of Fard Badar entries.

The only clerical mistakes in Jamabandi entries, orders for the correction of which in a subsequent record should not be obtained on the Fard Badar, are those which cannot be conveniently described in the Fard Badar. The difficulty of describing a clerical mistake in the Fard Badar may, for instance, arise where the mistake relates to the share of an owner whose name enters into several different combinations in the Jamabandi entry relating to the holding.

A few blank sheets of the Jamabandi sizes will be stitched to the patwari's copies of each Jamabandi. When the next Jamabandi is prepared a copy of the Fard Badar attested by the Field kanungo will be attached to the Government copy of that Jamabandi.

Checking of Fard Badars

(c) The Collector and District Revenue Officer should examine Fard Badars from time to time in order to see that the procedure prescribed in connection therewith is properly understood and followed by the subordinate revenue staff.

Mutation of correction not to be made

8.54. When an entry has been incorporated in the Jamabandi a mutation should not be entered up or sanctioned for the purpose of correcting it, except to correct a clerical error (where this cannot be done by a Fard Badar), or in consequence of a patent fact. The party aggrieved by such an entry must seek his remedy by suit, (L.L.T. 1934, page 2.)

Interrogatories

8.55. If a patwari finds, when entering a case in the mutation register or otherwise, that a person whose statement is essential for the disposal of the case, is residing outside the limits of the Tahsil, he should write up on interrogatory which may conveniently be in the following form:-

Interrogatory in the name of _____ son of _____
son of _____, Village _____, tehsil _____
District _____, State _____.

1	2	3	4	5	6	7
Name of village with Hadbast No.	Mutation No.	Brief account of the transfer showing the name of transferer and transferee, the total area of the land transferred, the nature and date of transfer, & consideration money, etc. etc.	Questions with date and signatures of patwari and field kanungo	Answers with date and signature of persons giving statement as well as the person identifying (Lambardar) and that of the official recording the statement	Orders as to compliance with the interrogatory	Reports and orders after compliance with the interrogatory
Name of tehsil and district						

The patwari will fill in columns 1 to 4 of this statement and then despatch it to his Field Kanungo, nothing the fact in column 14 of the mutation sheet. The Field Kanungo will add his signature in column 4 of the form and send it on to Tehsildar. In column 6 of the Tehsildar will address the Tehsildar or other officer in whose jurisdiction the person is residing, or if the interrogatory has to be sent through the Deputy Commissioner, will write his report. The Tehsildar addressed should himself, as far as possible, take the statement of the person concerned, but may depute the Naib-Tehsildar or the Field Kanungo of the circle to do so, to avoid delay. The date of receipt and despatch of interrogatories should be recorded in the despatch book of every officer through whose hands they pass.

Tehsildars and Naib-Tehsildars to examine all mutations

(a) Tehsildars and Naib-Tehsildars, on visiting a village should examine all mutations in which interrogatories have been issued and either decide such as are ripe for decision and the parties are present, or arrange for the decision of the mutation on the next suitable occasion.

Period for replies to interrogatories

(b) Replies to interrogatories should generally be awaited three months if the enquiry is to be made within Himachal Pradesh and four and five months in the case of persons residing elsewhere, but it is left to the discretion of the attesting officers to wait longer in particular cases for special reasons.

An interrogatory may also be issued under the orders of the attesting officer for the examination of a person residing within the limits of the Tehsil if the officer thinks is that such person cannot attend without an amount of expenditure and inconvenience which would be unreasonable in the circumstances of the case. No interrogatory should, however, be issued for the examination of a person residing within the limits of the Tehsil unless such person resides at a distance of more than 40 kms. from the village to which the mutation relates. An interrogatory issued under this clause should be entered on the same form as that prescribed for other interrogatories and should be addressed to the Tehsildar who, after taking or having taken the statement of the person concerned, will return it to the Field Kanungo, the dates of receipt in and despatch from the Tehsil being entered in the despatch book. In the absence of any special reasons replies to interrogatories issued within the limits of the Tehsil should not be waited for more than three weeks.

In order to see that prompt action is taken on interrogatories, inspecting officers should devote particular attention to ascertaining that interrogatories sent from other districts are promptly dealt within the district concerned. The Tehsildar should at the close of each month send a list to the Deputy Commissioner showing the interrogatories received in his Tehsil which have not been returned to the Tehsil or district concerned as well as the dates of their receipt. The Deputy Commissioner should scrutinize these lists and take disciplinary action in cases where he finds that unnecessary delay has been allowed to occur in the disposal of these interrogatories. A separate despatch register should be opened in each Tehsil office for entering interrogatories only. This register will be kept by the office Kanungo who will enter in it all interrogatories issued to or received from other Tehsils. He will divide this register in two parts. In one part he will enter the interrogatories issued from his Tehsil and in the second part those received from other Tehsils, in the last column of the register will be entered the date on which the reply to the interrogatory has been received or the date on which a reply has been sent to the Tehsil from which the interrogatory was received.

Procedure as regards registered deeds of transfer

8.56. Registrars and Sub-Registrars send monthly to Tehsildars particulars of all registered deeds which purport to transfer agricultural land. The office Kanungo forwards these slips to the Field Kanungo of the circle who distributes them to the patwaris concerned. The form of the notice is as follows:—

1	2	3	4	5	6	7	8
Serial No	Name of the village where the land is situated	Nature of alienation and the area, field No. and Jamabandi holding No. of the land alienated and in the case of buildings situated within the limits of a municipal committee, small town committee or notified area committee, details of property according to section 21(2) of the Registration Act.	Amount of the consideration money entered in the deed	Name and residence of person executing the deed	Name and residence of the person to whom the land is alienated	No. and date of the registration of the deed	Remarks

With the memoranda is sent an invoice in the following form:—

1	2	3	4	5
Serial No.	Number of deed	Name of village	Date of Field Kanungo's report returning the registration memo to the tehsil office	Remarks
24	25724	Rampur	10th March 1990	

Where a deed is not to take effect immediately but after a specified period, this fact should be noted in the column for remarks.

- (i) A file should be kept of all invoices received during the year and a fly index will be attached to it in the form usually adopted for miscellaneous files.
- (ii) The registration memoranda should then be sent to the Field Kanungo, who will distribute them to the various Patwaris for entry in their mutation register in the usual way. The information in the memoranda is sufficient to enable the patwari to enter up the transfer in his register of mutations as soon as he receives them without reference to the transferee.
- (iii) When the Field Kanungo hands over the memoranda to a patwari the latter should make a note of the fact in his diary recording the serial numbers of the sheet received by him. The entry should be signed by the Field Kanungo. The patwari will then enter up in his register the mutations detailed in the memoranda and endorse the fact of entry on the memoranda giving the serial number of each mutation and the date of entry. On his next inspection the Field Kanungo will see that this has been done and after comparing the entries in the mutation registers with the memoranda, will sign both and himself forward the latter to the office Kanungo. If a memorandum contains land situated in more than one patwari circle the Field Kanungo will take similar action as regards all the circles concerned before forwarding the

memorandum to the office Kanungo.

- (iv) On receipt of the memoranda from the Field Kanungo the office Kanungo will place them on the file together with the invoice covering them. In the "remarks" column of this he will note the date of receipt. Thus he will be able to detect any delay in the return of the memoranda and bring it home to the responsible official.
- (v) When all the memoranda appertaining to an annual file have been returned by the patwaris a note of the date on which the last memorandum is received should be entered on the fly index. The annual file which will then be complete should be kept in the Tehsil and destroyed on the expire of one year from such date.

Mutation fees

8.57. (a) The scale of mutation fees fixed by the local Government under the authority given to it by Section 39 of the Himachal Pradesh Land Revenue Act is stated in Himachal Pradesh Government Notification No. 10-9/69-Rev-A of September, 1992 which is reproduced below:-

NOTIFICATION

In supersession of the Himachal Pradesh Government Notification No. 10-9/69-Rev-A dated the 7th May, 1980 and in exercise of the powers conferred by Sub-Section (1) of Section 39 of the Himachal Pradesh Land Revenue Act, 1953 (Act No. 6 of 1954) and all other powers enabling him in this behalf, the Governor, of Himachal Pradesh is pleased to fix the following scale of mutation fees for the purpose of that item/section with immediate effect.

Name of Item/Section.

Scale of fees.

1. When the entry related to the acquisition of a right or interest by a registered deed or by a decree or order of a Court or by an order of Revenue Officer making or affirming a partition under Chapter IX of the Land Revenue Act, or directing the incorporation in the record of a Private partition.

A fee of Rs. 2.00 (Two) shall be charged on each proprietary holding subject to maximum of Rs. 10 (Ten).

2. When the entry relates to the acquisition of a right or interest by inheritance.

One rupee per holding subject to maximum of Rs. 5.00 (Five).

3. When the entry relates to the acquisition of a right or interest not otherwise provided for in paragraph 1 and 2 above.

One rupee per holding subject to maximum of Rs. 8.00 (Eight).

4. The above fee shall be charged on all mutations whether accepted or rejected.

Provided that the attesting officer may remit the fee on any rejected mutation when in his opinion it would not be proper to recover it from the person in whose favour the mutation was entered.

5. In any case in which the fee payable under the foregoing provisions is found to be excessive in amount with reference to the value of the right or interest transferred or for any other reason, the Commissioner may either remit the fee or reduce it to such amount as he deems to be reasonable.

6. Notwithstanding anything contained in the preceding paragraphs, no fees shall be charged in respect of entries relating to the acquisition of a right or interest by the Bhudan Yagna Board or the Bhudan holder under the Himachal Pradesh Bhudan Yagna Act, 1954 (Act No. 2 of 1956) or by inheritance in the property of any person, in any of the naval, military or air forces of the Union of India:-

(a) who is killed on active service in the Second World War; or

(b) who receives a wound or is involved in an accident or contracts a disease while on such service and dies within twelve months as a result of such wound, accident or disease.

8.57(b) Mutation fee can be legally levied only from the person in whose favour the mutation entry is made. In the case of a rejected mutation, the Revenue Officer may remit the fee for any special reason to be specified by him in the order. In the case of every rejected mutation whose fee is not thus remitted, the order should give the name of the transferee from whom it should be recovered. This precaution is necessary in order to ensure that the fee is not recovered from the person from whom it is not legally recoverable.

The portion of the order referring to the recovery of mutation fee may be corrected by the Revenue Officer who passed the order, by his successor, or by a superior officer, for reasons to be recorded in writing.

**Payment of fees
into the treasury**

8.58. Each year in the month of September the Patwari should prepare for each village in his circle a list of the fees due on mutations attested during the past year and of the person from whom fees are due. He should also give full detail of the amount to which the various Patwaris are entitled as their respective share. After the Field Kanungo has completed the check prescribed by paragraph 8.60 infra the Patwari will, after revising the list, if necessary, make it over to the Lambardar whose duty it is to pay the amount of the fees, when the first instalment of the next kharif land revenue is due, less any share to which the Patwari is entitled. The Lambardar will pay the share of the Patwari incharge of the village and will obtain a receipt for the same. The share of other Patwaris, if any, will be deposited by him into the treasury and placed in revenue deposit and the Tahsildar will arrange for its disbursement among the rightful claimants. The receipt obtained by the Lambardar for the amount paid to the Patwari must be produced by him when fees are paid into the treasury and in its absence no deduction on account of Patwari's share of the fees will be allowed by the Tahsildar. In case of the absence, death or transfer of the patwari entitled, or in case of a dispute as to who is entitled, the Tahsildar on the application of the absentee or by a disputant, shall keep the money in deposit pending the appearance of the absentee or the rightful claimant or settlement of the dispute. The patwari's share of the mutation fee shall otherwise not be put in deposit.

Any over-payment made to a patwari on account of mutation fee should be recovered by deduction of this amount from his next pay bill under the orders of the Collector. Recovery of any amount of over-payment from a dismissed patwari may be made from his special Provident Fund.

**Patwari's share
to whom due**

8.59. The share of the mutation fee to which the patwari is entitled should always be paid to the man who enters the case in the mutation register and not to the man who incorporates the sanctioned entries in the Jamabandi.

Entry of fees in lists

8.60. In order to secure the correct entry and collection of mutation fees, the patwari when preparing the lists referred to in paragraph 8.62 (v) will enter in red ink over the serial number of each mutation (column 4 of the lists) the amount of fee according to the mutation sheets, and at the bottom of column 4 will enter the total demand of the village. It is the duty of the Field Kanungo when checking Jamabandis in the Tehsil (see paragraph 8.86 infra), carefully to check these entries with the original sheets of accepted and rejected mutations, and to certify that they are correct. The entry of amount of the fees in statement 5 of the village note book should be discontinued. Any mistake discovered by the Field Kanungo should be communicated by him at once to the patwari who will then complete the lists referred to in paragraph 8.58 supra.

Office Kanungo's statement of mutation fees

8.61. As soon as the Field Kanungo's check is completed the office Kanungo will prepare a statement in duplicate in the form below:—

TEHSIL _____

Statement of demand on account of mutation fees for the year Kharif 19..... and Rabi 19.....

Number of mauza	Name of mauza	Total mutation fees due from each estate	Deduct patwari's share	Balance to be credited to government with first kharif instalment of land revenue

Explanation—Give against each mauza only the total sum due from it not the fee due from each holding.

One copy of the statement should be sent by the Tehsildar to the Collector as soon after the end of September as possible for incorporation in the running register. The other copy should be made over to the Tehsil wasil baqi navis in whose custody it will remain. It will then be the duty of the Tehsil Wasil Baqi Navis to see that the fees are realized and credited in the Tehsil accounts as above directed.

Disposal of forms containing mutation orders

8.62. The following instructions prescribe the method of disposal of forms containing mutation order:—

- (i) Each patwari will be provided with two counter foil registers, the one for accepted, the other for rejected, mutations. This register will be in the following form in duplicate, except that the last column will only be in the foil:—

1	2	3	4	5	6	7	8	9
Hadbast No. with name of village	Serial number of batch for the current year for the village shown in column 1	Particulars of mutation					Signature of attesting officer	Date of receipt in tahsil with signature of office kanungo
		Date of order	Total number of mutations	Number of mutation sheets	Serial number of mutation	Signature of Patwari		

- (ii) On each occasion that he attests the mutations of a village, a Revenue Officer should have the mutation sheets, on which orders have been passed in serial order in two bundles, the one of accepted, the other of rejected mutations, and he should order the patwari to enter the necessary particulars in the registers aforesaid. The foils should then be detached from the counterfoils and affixed as indices to the two bundles, each of which should be stitched together with stout thread.
- (iii) The bundles of sheets should then be despatched or personally made over by the attesting officer to the Tehsil office Kanungo. Attesting officers are responsible for the safe custody of the sheets until they are so made over and should be very careful to prevent their loss.
- (iv) On receiving the sheets the office Kanungo will check them with the indices, sign the letters and then place both sheets and indices in an almirah, where he will arrange them in files by field Kanungo's circles and between board tied round with tape or string. Within these boards the sheets should be arranged by patwari's circles, those of each village being placed together, along with their indices in the order in which they reach the office Kanungo. The files of accepted and rejected mutations in each Field Kanungo's circle should be kept distinct and on separate shelves.
- (v) After June 15th the patwari should prepare two lists in the form below of all mutations attested during the year for each village in his circle. One list will show accepted, the other rejected, mutations.

1	2	3	4	5	6	7
Hadbast No. and name of village	Total number of mutations	Total number of sheets	Number of mutations in serial order	Signature of Patwari	Signature of Tehsil office Kanungo	Remarks

These lists should be prepared from the counterfoil register described in paragraph 8.4 supra and after being checked with the register of mutations should be sent to the Tehsil not later than August 1st, a copy of entries in the first four columns being retained by the patwari in his diary.

- (vi) On receipt of these lists the office Kanungo should compare them with the mutation sheets in his custody, arrange the latter in their serial order remove and destroy their indices, sign the lists in column 6 in token of their correctness, and attach them to the bundles of sheets to which they refer.
- (vii) As soon as a Jamabandi is filed, the office Kanungo should make over the accepted mutation sheets of the village in question to the Field Kanungo and take his receipt in the last column of the list which is attached to those sheets and he will retain. The sheets will then be attached by the Field Kanungo to the Jamabandi.
- (viii) The lists containing the receipts of the Field Kanungos should be made into Kuliat files, one for each Field Kanungo's circle. Each file should be indexed and the lists which it contains should be arranged by the serial order of the 'hadbast numbers' of the villages to which they relate. The files should be destroyed after five years, that is, after the next detailed Jamabandis have been prepared.
- (ix) The rejected mutation sheets of any village for which a Jamabandi has been prepared should be sent to the district record room along with that Jamabandi and the lists attached to them. These sheets should be kept in the Land Record Office for fifteen years and then destroyed.

Disposal of miscellaneous papers

8.63. Petitions and exhibits should be returned to the parties by the attesting officer. If depositions are taken by commission the essential part of them should be very briefly incorporated in the attesting order so that the mutation sheet be complete in itself. Any papers which cannot be returned should remain attached to their proper mutations. When the Jamabandi of any village is filed the miscellaneous papers should be removed from the sanctioned sheets of mutations and made into distinct files one for each Kanungo's circle. These should be kept with the files mentioned in paragraph 8.62 ((viii) and destroyed with them after 5 years.

Part B—The Jamabandi

8.64 The form of the Jamabandi is as follows:—

Jamabandi

1	2	3	4	5	6	7	8	9	10	11	12
Khewat No.	Khatuni No.	Name of Patti or Taraf with name of Lambardar and revenue	Owner, with description	Cultivator, with description	Well or other means of irrigation	Field numbers	Area	Rent paid by cultivator, rate and amount	Share or measure of right and rule of Bachh	Demand, with detail of revenue and cesses	Remarks

Note:—The form may be altered with the sanction of the Financial Commissioner to meet the requirements of any particular district or tract. For canal colonies in particular a special form will generally be found necessary (see the form in paragraph 8.70) and in other districts it may prove advisable to effect minor alterations. Thus if there are two classes of owners, superior and inferior a column to show a superior owner can be inserted between column 3 and 4. A column may, if necessary, be added for "date-trees" liable to assessment. In tracts under fluctuating assessment this form may be used or the alternative form given in paragraph 7.45 infra, as may appear more suitable. In the case of urban lands to which the Himachal Pradesh Land Revenue Act applies, the ordinary form should be adopted, but it should be divided into two parts, namely, (a) for agricultural (zarai) and (b) for urban (sakni) lands. Lands specially assessed as potential building land as in Shimla, should be classed in the former but distinguished from other agricultural land by the addition of the word 'qabil tamir.'

Special instructions relating to the Jamabandi

8.65. (1) Column 1—The Khewat number is the number of owners holding. Except as provided in paragraph 8.38 Supra, arrange owners' holdings in the order in which the names of owners are given in the village genealogical tree (Shajra nasab). Muafi holdings must not be collected at the end of the Jamabandi. Each should be put in the place to which, with reference to the order of ownership, it belongs. A mortgagee in actual possession, and paying the land revenue should have Khewat and not a Khatauni number, except as provided in Clause (5) Infra.

(2) Column 2—The Khatauni number is the number of the holding (Khata) of the person responsible for the cultivation. Enter in order all the holdings belonging to each Khewat number showing first the holding, if any, cultivated by the owner himself (Khudkasht), next the holdings of occupancy tenants, lastly, those of tenants at will. If a tenants holds land under one owner, part in occupancy right and part as a tenant at will, the whole may be entered as a single holding, the field held under each tenure, and if necessary, their rent, being separately detailed,. Where there are several tenancy holdings under one proprietor the tenants in their several classes should be entered, so far as possible, in alphabetical order. The Collector may prescribe a different order of entry for the Khatauni holdings of Government lands in a colony area if he finds that the orders prescribed in this instruction cannot be suitably followed as regards such holding.

(3) Column 3—Enter the Patties or Tarafs in the order in which they appear in the Shajra nasab. If there is any common land belonging to all the owners of the Patti or Taraf, enter it as a separate Khewat number after the Khewat numbers of the individual owners. Enter the total for each Patti or Taraf after the last of the Khewat numbers contained in it.

(4) Column 4—"Description" in this column includes father's name, and grandfather's name and residence, and for officers of the Indian Army the title of their rank, as Subedar, Major, etc. If the owner is a firm, its manager should also be named and described. If the firm is registered under the Indian Partnership Act, IX of 1932, the partners need to be mentioned; but if the firm is not registered the partners should also be named and described and the details of their shares recorded. The mortgagee with possession, i.e. one who is responsible for the payment of land revenue for the mortgaged land, should also be entered with a similar description in this column under the name of the owner, thus, Sohan Lal rahin wa Sewa Ram wald Mohan Lal wald Ram Lal sakin Sanjauli murtahin.

The amount of the mortgage debt will not be entered anywhere in the Jamabandi. If any of the recorded owners in a joint holding is out of possession note the fact and show who is in possession of his share, thus Sohal Lal ek tihai wa niz kabiz hakkiyat Mohan Lal, gair kabiz do tihai. if the person in possession, i.e. who pays the revenue is not owner, show this clearly, thus, Sohal Lal gair malik kabiz hakkiyat Mohal Lal mailk gair kabiz. Regarding the entry of a right holder as gair kabiz. The practice has in the past existed of making a note in the rent column (No. 9) against the entry of a tenant at will of bila lagan ba waja tusaw-wa milkiyat. This entry, which tends to operate as one of gair kabiz in respect of the owner, should never be made. It is in the first place inconsistent because a person who is a tenant cannot be in adverse possession: further the record is one of facts and not of claims. If the facts show adverse

possession the mutation of gair kabiz should be made, and disposed of as shown in para 8.47(6) Supra (L.L.T. 1932 page 141).

If a sharer in a joint holding sells or mortgages the whole or a definite fraction of his share, the name of the transferee will be shown in this column.

When a person whose name is entered in the record of rights is a minor, a female or otherwise incapacitated from managing his own affairs, the name of his or her Sarbrah or guardian need not be shown. It is needless to specify whether a right holder is of age, or a minor. Where such entries have already been made the patwari may, when the right holder comes of age, omit the designation "minor" and the name of the Sarbrah without entering the case in the mutation register.

(5) Column 5—"Description" in this column includes the father's name, and grandfather's name and residence, and for officers of the Indian Army the title of their rank as Subedar, Major, etc. If the tenant is a firm its manager should also be named and described. If the firm is registered under the Indian Partnership Act, IX of 1932, the partners need not be mentioned, but if the firm is not registered the partners should also be named and described and the details of their shares recorded.

The status of the cultivator should also be recorded which may be as follows:-

- (a) Cultivating owner:- Khud-Kasht, or if one of several share holders is cultivating a portion of the holding (hissadar kasht) khud kasht hissadari.
- (b) Occupancy tenant-maurusi or dakhilkar if any subservient. Also muquarraridar and any other local form of right.
- (c) Tenants holding for a fixed term under a contract (pattadar) or a decree of a Court or an order of competent authority. It should be remembered that the status of a lease-holder for a year differs from that of a tenant-at-will.
- (d) All other tenants, i.e. tenant-at-will (Ghair Maurusi or Ghair Dakhilkars). A person, who is in adverse possession, should not be described as Ghair Dakhilkar or Ghair Maurusi. These words imply the relationship of landlord and tenant which is incompatible with adverse possession.

Where the cultivation of the same field in the two harvests is done by different cultivators, the name of the Rabi cultivator should be entered in red ink under the Kharif tenant: he should not be given a separate Khatauni number.

If a co-sharer in a joint holding transfers land by way of sale, gift or otherwise or mortgages certain fields and the transferee obtains possession and all the interested parties agree, the name of the latter will be shown in this column not in column No. 4. He shall be given Khatauni and not a Khewat Number

The tenant is the person responsible for paying the rent. If he sublets the land the entry should be Sohal Lal Ghair Maurusi Awwal Marfat Chet Ram Ghair Maurusi Doyam.

For instructions relating to recording of entries of possession, relinquishment of tenancies, detection of encroachment on Government land, changes of classification of land, restrictions of recording encroachments on Government land, restrictions of variation in ownership, possession etc. on Government land, the provisions of para No. 9.9. of Chapter No. 9 on 'Harvest Inspections' of H.P. Land Records Manual shall apply, which may be consulted.

(6) Column 7—The field of khasra number is the number given to the field in the village map (Shajra Kishtwar). The order of entry should usually be that of the khasra Girdawari. The soil description in the

Jamabandi is intended to show the permanent method of husbandry applied to each field, and not the condition applicable to any particular harvest or harvests, see paragraph 260 of the Settlement Manual. The soil entry must, therefore, be changed, when but only when, a permanent change has occurred, as e.g. by the cultivation of land which was previously Banjar Jadid or Banjar Kadim or by the conversion of Barani into Chahi land owing to the sinking of a new well. Ordinary, changes in soil classification need only be made in the year in which quinquennial attestation takes place.

(7) Column 8—Where the Ghumao measure is in use, enter the area of holding in kanals and Marlas only reckoning out Ghumaos only in the totals of Patties or Tarafs and of the estate.

(8) Column 9—Where rent is paid by share of produce (Batai) enter the share only. If by a lump sum note the amount, otherwise not both rate and amount in the case of cash rents. Where part of holding pays at one rate, and part at another, see that areas, etc. are given in sufficient detail, so also where cash rents are paid on particular crops.

“Where no rent is paid by a person in possession other than the owner briefly explain the reason for non-payment of rent. If the fact is undisputed, as above explained, the entry of no rent because of a claim to adverse possession should never be made.”

If the fact is that the possession is adverse the entry should be of Gair Qabiz, if the fact is that he is a tenant then if the rent cannot be ascertained it should be recorded as doubtful. For the share of partners in cultivation see sub-clause (10) (viii) below.

(9) Column 11—If the revenue of a holding is assigned (Muafi or Jagir) enter the amount in red ink. If the totals of Patties or Tarafs and of the whole estate show the whole revenue in black ink with a detail of Khalsa in black and Muafi or Jagir in red ink.

(10) Column 12—In the case of all new entries of names of owners, mortgagees with possession and occupancy tenants and alterations in shares, etc., which are supported by any mutation or Fard Badar entry refer in this column to the entry by which they are supported. References to Fard Badar entries should be given in the manner described in paragraph 8.2 Supra. If mutation of rights has occurred and has been entered up before June 15th or the date approved by the Director of Land Records but not attested, note briefly the facts which are believed to have occurred, giving the serial number of the entry in the register but stating that the mutation has not been attested:

(i) If a new well or any other source of irrigation has been made, or a deserted well or any other source of irrigation has been brought into use, or if a well has fallen in or been deserted be very careful to note the fact.

(ii) If a holding or part of a holding has been hypothecated to Government as security for a Takawi loan, make a note of the fact.

If a second loan is given on the same security a second mutation is not required see paragraph 8.36 Supra but whether a mutation has to be entered up or not the patwari should make a note of the loan in column 12 of the current Jamabandi which should be carried over to all succeeding Jamabandis.

(iii) A brief description of the terms of collateral mortgages attested in the mutation register will be entered in this column, but no entry relating to such mortgages will be made in any other column.

(iv) If the revenue of a holding, Patti or taraf or of a whole estate, is assigned (muafi or jagir), note the fact and the names, description, and shares of the assignees in red ink in this column.

(v) If mutation is refused in any case with reference to which notice of the registration of a deed

has been received, note the fact in this column specifying the nature of the deed (sale, mortgage, etc.) and its date.

- (vi) If any land in a colony town has been sold by Government for a specific purpose or subject to any particular conditions, then note here the purpose or the conditions.
- (vii) "The amount of produce received by Adhjogias and other partners in cultivation from the land lord as their share and the contribution towards seeds, Government dues, etc. if any, made by them, should be recorded in this column."
- (viii) "A note showing the names of owners whose land has been acquired by Government wholly or partially and without a share of the Shamlat, together with the area transferred and the number of the relevant mutation, shall be entered in this column. It shall also be stated in this note that the owner concerned will be entitled to due share of this Shamlat area at the time of partition. The note in question shall be copied from Jamabandi to Jamabandi till partition of the Shamlat takes place (see paragraph 8.38)."
- (ix) The patwari shall enter notes as mentioned in paragraph 8.27, 8.39 and 8.43 in this column.
- (x) In Districts Kangra, Hamirpur and Una, the entries of 'Khud-ro-Drakhtan Malkiat Sarkar' over Ban Sarkar areas belonging to the landowners or over Shamlat lands not vested in the Government under the H.P. Village Common Lands (Vesting and Utilization) Act, 1974 and falling under exceptions, in remarks column of Jamabandi have been coming since long. Such entries shall continue to be recorded in the subsequent jamabandis in the remarks column and shall not be deleted except with the orders of the State Government or the orders of the Collector of the District.

Note :- Substitution and deletion of such entries ordered by H.P. Government vide Notification No. (Rev) D (D) 1-18/85-I, dated 26th December 1989 shall be made in the revenue record by the patwari and Field Kanungo in accordance with these orders. The Revenue Officer shall check such entries by 100 per cent.

8.66. In connection with the making of entries in the Jamabandi on the basis of the mutations, following instructions are issued:-

- (i) The entries in column 4 (owner) of the Jamabandi should remain unaffected.
- (ii) In column 5 (cultivator) the department of Government, for whose operations the lease has been affected, should be shown as lessee and the land owner as lessor.
- (iii) In column 9 (rent), the entry should be "rent at owner's rate on account of the construction and maintenance of (—————) here specify the purpose of the lease)."

Land held by Government

8.67. All land owned by Government should be entered in one place after the village common land. All land permanently appropriated for public purposes since the date of the last settlement should be entered thus.

- (1) Where land belongs to a Department of the State Government the words "State Government" should be recorded in the column of ownership. Where land belongs to a Department of the Government of India, the words "Central Government" should be entered in that column.
- (2) In the occupiers, column the name of the department which has charge of the land, e.g. Deputy

Commissioner, I & PH Department, Executive Engineer. North-Western Railway, Postal Department, Defence Department, etc.

- (3) In lieu of soil entries, state the purpose to which the land is applied, e.g. encamping ground, sarai, canal rajbaha, bungalow, etc.
- (4) When nazul or other Government property is vested in a local body, or is otherwise in its possession such property should be described as "State Government or Central Government" as the case may be, "maqbuz M.C., or Municipal Corporation, or Cantonment Board" as the case may be. But property acquired by a local body should be shown as owned by that body. In order to guard the interests of Government, no mutation of any new acquisition or of sale of property owned by a local body should be made without the order of the collector.

Concerning land occupied by Government at the date of last settlement which Government still holds, the entries of the last settlement, in the column of ownership will be repeated unaltered. The columns of occupancy and description of land will be filled up as above directed.

If the land is occupied only temporarily, as for instance, the approach to a ferry, the names of the owner and hereditary tenants will usually be continued, and separate numbers need not be made. Government possession can be described in the column of remarks.

Changes in soil entries

8.68. A note should be added at the end of the Jamabandi stating briefly what changes have been made in the soil entries, and where the changes are important, explaining the reason for making them. This note should be signed by the Kanungo and by the Naib-Táhsildar or Tahsildar.

8.69. Alternative form of Jamabandi for fluctuating assessment is given below:-

Jamabandi form for Fluctuating Assessment

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
						Detail of			Crops		Rent		Demand kharif 1991 rabi 1991		
Khwat number	Khatauni number	Name of well or patti	Owners, with description	Cultivators, with description	Khasra number	Area of field and total of holding	Class of land and rate	Name of canal and area irrigated in each field, with details of flow and lift	Kharif	Rabi	Cash	Kind	Revenue	Cesses	Remarks

Column 8—The rate should be entered only against the total of each class of land, and at the end of each holding, or once for all at the beginning of the Jamabandi.

Column 16— Enter balance due also authority for new abiana demands.

8.70. Alternative form of Jamabandi for colony towns and Chaks given below:-

Jamabandi Abadi																		
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
Serial No. according to auction or allotment register private treaty	Khewat No.	Khatauni No.	Name of Lambardar with revenue	Name of owner with description	Name of tenant with description	Name of owner of building material with description	Name of rent payer with description	Number of block	Field number or site number	Area in Hec. Ares or centares square M/cm		Description of land		Rent annually paid by the occupier	Class of Ahata	Rate of revenue imposed	Demand with details or revenue and cesses	Remarks
										Area according to the registered deed or according to the original contract	Present area	Purpose for which the land was originally allotted	Purpose for which it is being used					

Note:- This form will be used where the land in a colony town or a Chak has been built upon. The ordinary form of the jamabandi will be used in the case of land which is still culturable though within the town limits.

INSTRUCTIONS

8.71. (1) Column 1—Against each field number included in the Khewat, the serial number of the auction or allotment register or the register of sales by private treaties, in which the land of each field No. is included, should be given in this column.

(2) Column 2—The Khewat is the number of owner's holdings which should be arranged in the order in which the names of owners are given in the village genealogical tree. In the case of towns where the genealogical trees are not in existence, the order of Khasra numbers will be followed. No one should be given a separate Khewat number, until he has obtained full proprietary rights.

The old Khewat number should be given in red ink under the new Khewat number.

(3) Column 3—The Khatauni number is the number of the holding of persons responsible for the payment of rent or are in possession of the site. Occupancy tenants, auction purchasers, peasant grantees, or persons holding sites under special conditions, will be given separate Khatauni numbers under the Khewat of Sarkar. In such cases the old number of Khatauni should be in red ink under the new Khatauni number.

(4) Column 4—The name of Lambardars responsible for the realization of land revenue assessed on sites should be entered. The total land revenue demand for which each Lambardar is responsible should be entered in this column.

(5) Column 5—"Description" in this column includes father's name, father's father name and residence and in the case of officers of the Indian Army, the title of their ranks such as Subedar, Major, etc. The name of a mortgagee with possession must be shown under the name of mortgagor. If a sharer in the joint holding sells or mortgages the whole or a definite fraction of his share the name of the transferee will be shown in this column. The name of Sarbrah or guardian of minors or females need not be shown.

(6) Column 6—In this column those persons will be entered who will ultimately obtain proprietary rights but have not yet acquired their rights. Their holdings will be entered in the following order:-

- (1) Auction purchasers.
- (2) Occupancy tenants.
- (3) Peasant grantees.
- (4) Persons holding on half-resumable conditions.
- (5) Persons holding land on the planting conditions.
- (6) Lambardari grants.
- (7) Lease holders on horse-breeding conditions.

These persons will be shown within their separate groups in the order given in the pedigree-table.

After the holdings of the above named persons the holdings of the following should be entered:-

- (1) Non-occupancy tenants.
- (2) Shopkeepers.
- (3) Kamins (menials) permanently settled.
- (4) Additional kamins.
- (5) Ahatas allotted for masjids, Dharamsalas, etc.
- (6) Talkias.
- (7) Deras.

These persons will be shown within the groups in alphabetical order.

"Description" in this column includes father's name, grandfather's name residence and status, e.g., rent payer, occupancy tenant, abadkar, etc. In the case of an officer of the Indian Army, the title of his rank should be prefixed to his name. In case the site is in the possession of malik, the words maqbuza malik should only be written.

(7) Column 7—This column will be filled in the case where the owner of the site has lent the area to another person and has at the same time allowed him to erect building at the latter's own cost. "Description" in this column also includes father's name, tribe, got, residence. In case of an officer of the Indian Army, the title of his rank should also be prefixed to his name.

(8) Column 8—In this column those persons will be shown who pay rent to persons shown in

columns 5, 6 and 7. They will be shown in alphabetical order. The holdings of maliks will also be shown in this column. The "description" in this column includes father's name, grandfather's name, residence of the person occupying the building erected by the person mentioned in column 7. In the case of officers of the Indian Army the title of their rank should be prefixed to their names.

(9) Column 9—Block number should be given against the site number or field number in column 10.

(10) Column 10—The field number or the site number means the number given to it in the map. The order of entries should usually be that of Khasra girdawari.

(11). Column 11—This column will be left blank when area originally allotted has been divided or amalgamated with other areas and given separate field numbers.

(12) Column 12—The area arrived at the last girdawari of the field concerned or shown in the mutation register will be given in this column and will be in kanals, marlas and sarsahis or Bighas, Biswar and Biswangi or in metric measures as the case may be.

(13) Column 13—This should be ascertained by reference to the order of allotment.

(14) Column 14—This should be ascertained by reference to the Khasra Girdawari.

(15) Column 15—The amount of rent paid annually by the occupier should be entered here. This can be ascertained from the Khasra Girdawari.

(16) Column 16—According to the condition of sale or allotment, as far as payment of revenue is concerned, the ahatas are classified differently such as (1) residential sites, (2) shop sites, (3) combined residential and shop sites, (4) menials sites and (5) factories, etc. This column should show the class of ahatas.

(17) Column 17—The rate of revenue sanctioned should be given.

(18) Column 18—The total amount of the land revenue demand with details of revenue and cesses should be specified in this column.

(19) Column 19—In the case of all new entries of names of owners, mortgagees with possession, occupancy tenants and alteration in shares, etc. which are supported by any mutation or fard badar entry, the number of such mutation or fard badar should be given.

A brief description of the terms of collateral mortgages attested in the mutation register will be entered in this column but no entry relating to such mortgagee will be made in any other column.

If mutation is refused in any case with reference to which notice of the registration of a deed has been received, note the fact in this column, specifying the nature of the deed sale, mortgage, etc and its date.

In the case of allotment of Government land to local bodies or other private persons on certain conditions, the following particulars should be given in this column against the Khewat concerned:-

- (a) Where there is a registered deed. Place of registration, number of deeds, date of registration, number of bahi and number of volume.
- (b) Where the deed is unregistered. Number of file with the word 'English' or Hindi as the case may be and the date of execution of the deed.

- (c) Other cases e.g. Number of file with the word 'English' or Hindi as the case may be, and the date of the agreement, etc. of the agreement.

(20) No mutation of rights can be incorporated in the Jamabandi until a revenue officer has sanctioned it by an order recorded in the mutation register. The Jamabandi entries concerning holdings in which mutations have occurred, but on which no orders have been passed will remain unaltered.

Soil entries in the Jamabandi

8.72. The classification of the fields in column 7 of the Jamabandi has its origin in each case in the entries made in the khataunis when a village is remeasured. If note 14 of the instructions appended to the khatauni form (see appendix VII, Settlement Manual), be read it will be seen that the classification of soil may be considered under three heads:

- (a) Land which is cultivated without the aid of irrigation.
- (b) Land which is cultivated with the aid of irrigation.
- (c) Land which is not cultivated.

In all returns in which soils or crops are classified as irrigated and unirrigated, sailab soils and crops should be included in the latter class.

Unirrigated land

8.73. Lands which is cultivated without the aid of irrigation. In the village papers of many districts unirrigated lands which are not affected by flooding or percolation from rivers (sailab) are simply classified as barani. In those districts in which the barani lands are classified according to the kind of soil (see paragraphs 261-265 of the Settlement Manual), no revision of this classification should ordinarily be attempted. If for special reasons, as for instance, the spread of sand or ret it may sometimes be necessary to revise any entries relating to the classification of barani land, such revision should always be limited strictly to those lands in which some real occasion for the revision exists.

Classes of irrigated land

8.74. Land which is cultivated with the aid of irrigation. In note 14 appended to the Khatauni from appendix VII of the Settlement Manual, it is directed that all land irrigated regularly from a well should be classed as chahi, and that all land irrigated regularly from a canal should be classed as nahri. And it is explained that the actual area of crops irrigated in each case will not appear from the khatauni entries, but from the crop returns. The distinction herein contemplated is further explained in paragraph 260 of the Settlement Manual. The limits of the land permanently served by each well or canal distributory having once been ascertained and indicated in the field map, the same caution should be observed in changing these entries as is directed above with respect to the alteration of classes of barani land. Ordinarily no such change need be attempted except in the year of quinquennial attestation, and in carrying out these changes care should be taken that lands once classed as irrigated be not classed as barani nor barani as irrigated unless a permanent change of this nature has occurred.

Distribution of the cropped area in crop abstract and in area statement

8.75. It will result from these instructions that the method of distributing the cropped area over the various classes of cultivation shown in column 27 of the Jinswar abstracts will differ from the method adopted in column 7 and 11 of the mailan rakba. The entries in the Jinswar returns are derived from the khasra girdawari form and the entries in that khasra are intended to show how each field is treated from harvest to harvest; whereas the classification of soils in the milan rakba is taken from the Jamabandi, and is intended to show the conditions under which the village husbandry is permanently carried on.

Land which is not cultivated

8.76. This land is described in village papers either as unculturable waste (ghair mumkin), or as old waste (banjar kadim), or as new waste (banjar jadid).

When waste land of either of these three classes is cultivated, or when cultivated land is so injured as to make it unculturable (e.g., by the action of rivers or torrents), there is no difficulty in showing the

change at once in the annual Jamabandi or dilution or fluctuating assessment papers.

The entries connected with the changing of cultivation into banjar jadid and of banjar jadid into current qadim are less easily carried out with accuracy. Such changes, therefore should not be shown in jamabandi or in dilution or fluctuating assessment papers but in the next detailed jamabandi.

**Jamabandis
how & when to
be prepared**

8.77. Jamabandi should be written on paper of a quality. They are prepared for those estates in which the Collector directs that a detailed jamabandi should be prepared, and they ordinarily be prepared after 5 years in a 1/5-th of the villages in a district. They should contain every field entry in full. For these village, quinquennial returns should be compiled.

The concerned patwari shall write the jamabandi in his own handwriting in black ink. He shall be liable for disciplinary action if he causes the jamabandi to be written from any other person. The Field Kanungo and the Revenue Officer shall not attest jamabandis if the same are written in contravention of these instructions and obtain further orders from the District Collector in this behalf. The Collector shall pass orders as he deems fit.

A table should be given to each Field Kanungo, showing the arrangements approved for the preparation of detailed jamabandis for each patwari's circle in his charge this table being so arranged that the work of each year shall cover about a fifth of the Kanungo's whole circle.

As regards villages under fluctuating assessment special permission has been given in certain districts, by which the preparation of annual jamabandi is dispensed with unless it is required for purposes of the fluctuating assessment. The principle approved of this is that when special records have been prescribed which suffice for the purposes of fluctuating assessment, annual jambandis are unnecessary.

In village subject to diluvion, if the diluvion rules of the district prescribe the preparation of a record which enable us to dispense with an annual jamabandi, it is unnecessary to insist on its preparation in a year other than that of the quinquennial attestation. If such rules, however, are not sufficient for this purpose. It would only be necessary to prepare a detailed revised jamabandi for those holdings which are affected by river action. In such cases, the patwari will prepare two copies of the revised jamabandi of the holdings affected, one copy to be retained by him and the other sent to the Tehsil to be placed with the last detailed jamabandi filed in the district office.

**Necessity of
preventing
errors, etc. in
the khasra,
girdawari**

8.78. Thus for a large portion of the district no jamabandi will be prepared for one, two three or four years, and certain precautions are therefore, necessary to avoid errors and prevent girdwaris from tampering with the entries in the khasra girdwari or other papers.

Mutation occurring up to 15th June to be incorporated in the jamabandi

8.79. Tehsildars and Naib Tehsildars must, without neglecting record work in other villages, pay special attention to estates for which new detailed jamabandis are to be drawn up. All mutations upon which final orders have been passed up to 15th June (30th June for Kinnaur district) inclusive or any later date approved by the Director of Land Records are incorporated in the jamabandi. Every effort should be made to have all mutations which have occurred up to that date entered in the register and attested by that date.

The Tehsildar or Naib Tehsildar incharge of the circle in which any estate for which a jamabandi is to be drawn up is situated, must visit the estate in the cold weather before the middle of January, and, as far as possible, attesting all pending mutations. All attestations of mutations during the nine months preceding the drawing up of a new detailed jamabandi must be carried out in the village itself. At his first visit to estate in the cold weather the Tehsildar or Naib-Tehsildar should see that the patwari and Kanungo have arranged their work so as to carry out the instructions in the next paragraph.

Preparation for the drawing up of new Jamabandi

8.80. Preparation for the drawing up of a new jamabandi should be started by the Patwari and Field Kanungo in the cold weather and if possible, in all the estate concerned before the middle of January. They should together visit each estate for which such a jamabandi is to be prepared and by enquiry from the right holders ascertain whether any changes have occurred which have not been brought to record. The Patwaris should in the presence of the Kanungo (who should have the patwari's copy of the genealogical tree open before him), read out to the people the entries in the existing Jamabandis, and note changes in pencil in the remarks column, and in cases in which mutation orders are required; make the necessary entries in the mutation register. The Kanungo should bring the genealogical tree up to date and should check the entries in the mutation register with the jamabandi and note that they agree. He should help the patwari to prepare a list of fields which require amendment. The patwari should later make tracings in pencil of such portions of the village map as required to be amended.

Rabi girdawari of estates of which jamabandi to be prepared

8.81. At the rabi girdawari, the patwari must take up first the estate or estates for which a detailed jamabandi is to be drawn up, and be very careful to note all changes and fresh cases requiring mutation orders. If the work described in the last paragraph has been properly done the new entries in the mutation register should be few in number. They should be made before the harvest inspection of the next village is started. As soon as the crop inspection of the estate for which a new jamabandi is to be prepared is finished the patwari should send notice to the Tehsil.

Attestation of all mutations before the 15th June

8.82. After receiving this notice the Naib-Tehsildar or Tehsildar concerned must visit the estate as soon as possible, but in any case before the 15th of June, (30th June for District Kinnaur) or the date approved by the Director of Land Records and attest all pending cases.

Orders in mutation cases.

8.82 (A) Orders in mutation cases can be passed by an Assistant Collector of either grade. In practice nearly the whole of the work is disposed of by *tehsildars* and *naib-tehsildars*. In a country of small peasant proprietors the number of mutations to be attested annually is very large, and it is found necessary every year to appoint in some districts one or more extra *naib-tehsildars* selected from the lists of accepted candidates and to invest them with the powers required for the disposal of business under Chapter IV of the Land Revenue Act. An appeal of course lies to the Collector against orders sanctioning or refusing mutation of names, and the minute proportion which the number of such appeals bears to the number of mutations decided is evidence of the general satisfaction with the procedure.

Mutation work largely done by officers of no great standing or experience.

8.82 (B) It is clear from what has been just said that much of the mutation work is done by officers of small standing and little practical experience. It is also true that the work has often to be carried out very rapidly, if the important object of keeping the *jamabandi* up to date is to be attained. These are matters for reflection considering that each jamabandi now possesses the same authority as a record of rights drawn up at settlement. Fortunately the bulk of the work is exceedingly simple; there is no dispute as to facts, and no opening for doubt as to the order that should be passed. But this is by no means true universally, and cases find their way into the mutation register which require both care and knowledge to decide correctly.

Supervision of work by Deputy Commissioner and District Revenue Officer etc.

8.82 (C) When a Deputy Commissioner or District Revenue Officer or Sub-divisional Officer (Civil) is inspecting a *tehsil*, the mutation work of the *tehsildar*, *naib-tehsildar*, should all be brought under review. With the *jamabandi* of an estate lying open before him it is perfectly easy to pick out all the holdings in which changes have been made, for in support of them references to the mutation register are always given. If the inspecting officer looks up each case in the register, he can soon satisfy himself as to the quality of the work of the reporting *patwari* and of the Assistant Collector. Having done so, he can turn back to the *jamabandi*, and see whether the changes ordered have been correctly made. If this process is repeated for several estates in the circles of the *tehsildar* and *naib-tehsildar*, respectively the Deputy Commissioner cannot fail to gain a considerable insight into the value of the work done by both these officers, and by some of the *patwaris* and *kanungos* under their control. In examining mutation sheets special attention should be paid to orders passed in the absence of any of the parties. No order should be

passed affecting the share of any right-holder who has not had any opportunity of appearing.

**Conduct of
Revenue Work
on the spot.**

8.82 (D) *Tehsildars and naib-tehsildars are expected to deal with revenue work, and especially with cases relating to lambardars, land revenue assignments, partitions, encroachments and mutations, within the estates in which the cases have arisen.*

**Contents of
Mutation or-
ders.**

8.82 (E) Every mutation order should show on the face of it the place where, and the date on which, it was passed, and that all the parties interested were present or, if any one was absent, the way in which his evidence was obtained, or, if it was not obtained, what opportunity was given to him to be present. No detailed record of the statements of parties and witnesses is required, but the order should note briefly the persons examined, and the facts to which they deposed. [Land Revenue Rules 39, 40 and 44 (ii)]

Except in the case of *killabandi* mutations no *patwari* or *kanungo* or revenue officer should take the signatures or thumb-marks of parties or witnesses on mutation proceedings.

The facts on which the order is based should be stated succinctly but clearly, and the order must show without any possibility of doubt whether the revenue officer accepts the new entry proposed by the *patwari* as it stands, or, if it requires amendment, exactly what the entry is which is to be made in the *jamabandi*. The Order must always show whether a share of the village *shamlat* has been included in the transfer.

The Revenue Officer shall attest the mutations in the open assembly of the villagers in the presence of the parties. Atleast the presence of three respectable persons from the open assembly must be mentioned in the order by the Revenue Officer.

**Attendance of
parties.**

8.82 (F) A person who, after receipt of notice by summons or proclamation to appear before a revenue officer at some place within the estate in which he ordinarily resides or cultivates land, fails to present himself becomes liable to a fine not exceeding Rs. 50. This provision can suitably be put in force when the default is wilful and contumacious. But, where a man's attendance would involve an amount of inconvenience which under all the circumstances could reasonably be regarded as excessive, the proper plan is to take his evidence by commission.

**Mutation and
other revenue
work to be dealt
with in estates
to which it re-
lates**

8.83. As stated in para 8.82 (D) supra Tehsildars/Naiib-Tehsildars are expected to deal with revenue work, and especially with cases relating to Mutations, Lambardars, Encroachments and partitions etc. within an Estate in which the case have arisen. By this means, the attendance of all the parties will be secured and the facts of each case will be easily ascertained. In the case of estate for which a detailed jamabandi is to be drawn up during the agricultural year, mutation work must be disposed of in the village itself. If other cases, the Naib-Tehsildar or Tehsildar, if he cannot conveniently visit the estate, may pass orders on its mutations at any other place within the patwari's circle.

Revenue Officer should attest mutations according to priority based on the date of entry of report in the patwari's diary. In case, where a mutation cannot be attested, interim orders must invariably be recorded.

**Importance of
prompt disposal
of mutation
work**

8.84. Mutations which have not been attested before the end of the agricultural year (15th June), or the date approved by the Director of Land Records are not incorporated in the jamabandi then under preparation. This in most cases means that they will not be brought to record till more than five years after they have taken place. This untoward result can easily be avoided if Tehsildars and Naib-Tehsildars lay out their work properly, and pay special attention to the estates for which jamabandis are about to be drawn up.

Mutations pending over one year

8.85. Provision has been made in paragraph 8.4 of the H.P. Land Records Manual to ensure that special precautions will be taken by Tehsildars and Naib-Tehsildars to decide the mutations as soon as possible after the period of one year has elapsed. Unless mutations are duly attested within a reasonable time, litigation is held up and the cultivators do not settle down with clear minds with the cultivation of their lands. Collectors, and if necessary, Commissioners, should bear in mind any remissness on the part of subordinate Revenue Officers in this direction when reporting on these officers. Assistant Collectors of the 1st grade, in forwarding reports to the Collector should bear in mind their own responsibility for the proper supervision of mutation work.

Arbitration

8.85 (A) Disputed cases may be referred to arbitration with or without the consent of the parties, but little use is made of this provision of the Act. Where it is resorted to care must be taken to make the arbitrators understand that they must give a clear opinion as to the question whether the right claimed is actually enjoyed. If the revenue officer cannot satisfy himself as regards the fact of possession and thinks it inexpedient to refer the point to arbitration, he is required to make a summary enquiry as to title, and to direct that the person who appears to have the best right to the property shall be put in possession of it, and that his name shall be entered in the *jamabandi*. The disappointed claimant must be referred to the civil courts for the establishment of any right he conceive himself to have.

Preparation of Jamabandi

8.86(a) The new Jamabandi shall be prepared on the following basis.

1. Unaltered entries from previous Jamabandi.
2. Orders of Revenue Officer on mutations attested before 15th June (30th June for Kinnaur District)
3. Changes recorded in the previous khasra girdawari in columns relating to changes of rights, possession and rent etc.

The entries in these columns are taken straight from khasra girdawari when the new jamabandi is compiled.

4. Orders for the correction of clerical mistakes passed on the Fard-Badars by the collector as prescribed in para 8.53 of H.P. Land Record Manual.

(b) The jamabandi should be prepared in duplicate and one of the copies should be eventually filed in the Land Records Office and the other retained by the patwari. Both the copies of jamabandi should be written by the patwari in his own handwriting as already mentioned in para 8.77 above. He should also prepare 'Tehrij' himself and attach it at the end of both 'part sarkar' and 'part patwar' jamabandi. He shall prepare Index numbran khasra and attach in the beginning of jamabandi. In the months of June, July and August, the Field Kanungo should pay special attention to the detailed jamabandis which are being prepared by his patwaris. He should attest all the entries holding by holding, in the presence of the Zamindars concerned and see that due effect has been given to the mutation on which final orders have been passed by the 15th of June (30th June for District Kinnaur) or the date approved by the Director of Land Records. His attestation should be made on the copy which has eventually to be filed in the district office. This copy should contain his report to the effect that he has duly attested it, a list of errors discovered and alterations made being added in the Kanungo's hand-writing. A copy of this report signed by the Field Kanungo should be attached to the patwari's copy of the jamabandi. Any alterations that may be found to be necessary should be made at once in red ink by the Kanungo in both copies of the jamabandi and signed by him. He is personally responsible that the patwari's copy tallies in all respects with the other copy. Faking of the jamabandi by the substitution of a new page for one on which corrections have been made is absolutely forbidden.

**Filing of
Jamabandi in
the Tehsil**

8.87. The Patwari should give the first copy of the jamabandi to the office Kanungo at the Tehsil not later than September 7. During that month the Field Kanungo, with a view especially to see that the changes based on mutations have been properly incorporated and that the statistical statements filed with the jamabandi are correct, should again check the latter at the Tehsil, following, the same procedure as before, that is, he should himself make a copy of the list of the errors discovered and the alterations made at this inspection and sign it. This copy should be handed to the patwari who should stitch it into the duplicate jamabandi and make the necessary alterations in the latter. The Field Kanungo at his next visit to the patwari's circle should see that the patwari has done this, and initial all the alterations made.

**Check of
detailed
Jamabandis by
Revenue officers**

8.88. The Tehsildar or Naib Tehsildar incharge of the circle in which the village lies shall make his final attestation on the spot and shall observe the following instructions:-

- (i) At least 25 per cent of the khatauni holdings should be read out on the spot and in the presence of the assembled right holders.
- (ii) At least 25 per cent of the mutations attached to the jamabandis should be compared with the khewats concerned.
- (iii) At least 25 per cent of the khewat holdings should be compared with the old jamabandis.
- (iv) At least 25 per cent of the khewat entries in the original copy should be compared with the corresponding entries in the patwari's copy of the jamabandi.
- (v) *He shall attest and check hundred per cent entries of all the Government and shamlat holdings in an estate. He shall be responsible to ensure that no entry, which is not supported by any order of competent authority, and which is against the interest of the Government is made in the government holding in the jamabandi.*

The number of the fields, the tatima shajras of which have been attested, must be specified as also that of the unattested mutations entered before the 16th June or the date approved by the Director of Land Records, of these there should be as few as possible. This check must usually be carried out in the cold weather months between the end of the kharif and the beginning of the rabi girdawari. For the purposes of this check the Revenue Officer should take with him the copy of the jamabandi which has been filed in the Tehsil and he should record on this the report of the attestation and a list of mistakes discovered and alterations ordered. The report should specify what and how many entries were attested by personal enquiry from the right holders and when and where the attestation was made. A copy of the report signed by the Tehsildar or Naib-Tehsildar as the case may be should be attached to the patwari's, copy of the jamabandi. Any alterations that may be found to be necessary should be made in both copies of the jamabandi and initialled by the Revenue Officer under whose orders they are made.

When this has been done, the Revenue Officer should fill in two copies of the final attestation slip in the form given below and attach one copy of each of the two copies of the jamabandi.

Final attestation of jamabandi for the year 19____ village _____

Tahsil _____

District _____

1	2	3	4	5	6	* 7	8	9
Date of attestation	Place of attestation	Khatas attested	Verification of mutation orders incorporated in the jamabandi	Khatas checked with the previous jamabandi	Khatas compared with the patwaris current copy of the jamabandi	Khasra numbers of which taimmas checked	Mutations entered but not attested before 15th June	Remarks

I certify that all necessary corrections have been made and that this jamabandi is correct and complete in all respects, except as regards mutations shown in column 8 and other transfer discovered to have taken place before 15th June last and referred to.

If any part of the local attestation can be done adequately in the hot weather before Jamabandi are filed in the Tehsil, so much the better, but in that case a further check must be made to see that the Kanungo has carried out properly the instructions in paragraph 8.87 and the final certificate of correctness alluded to above must not be given until the second check has been carried out. A Revenue Officer superior in rank to the Tehsildar or Naib-Tehsildar should note the result of his attestation on the spot, of a jamabandi on the copy to the eventually filed in the district office and attach a copy of this note signed by him to the Patwari's copy of the jamabandi. He should initial all alterations made in both copies of the jamabandi under his orders. The result of any examination of jamabandis made by such officer in the Tehsil office should be entered in the minute book of the Tahsil and not the jamabandis examined by him. The Sadar Kanungo should note the result of his attestation of a Jamabandi in his diary and not on the Jamabandi itself.

Appellate orders

8.89. When an order is passed in appeal, on review or revision after the 15th June, a note in red ink should be made on the original mutation sheet by the Sadar Kanungo if the Jamabandis are at Sadar or by the office Kanungo if the Jamabandis are in the Tahsil office. The field Kanungo of the circle will make a similar note on the patwari's copy of the mutation order. If the jamabandi entries are not in accordance with the order finally passed on appeal, review or revision, the patwari should be instructed to enter a mutation by way of correction of the jamabandi and this mutation will be given effect in the Jamabandi prepared at the subsequent attestation. No fee will be charged.

Form of list of revenue assignment with instructions

8.90. A list of revenue assignments and pensions will be compiled for every village when a detailed jamabandi is prepared (paragraph 284 of the Settlement Manual), and its form along with instructions for its preparation is appended. The Field Kanungo must assist the patwari in the compiling of this return, and must sign it in token that he is satisfied of its accuracy. The Tehsildar or Naib-Tehsildar must attest every entry in the list of Muafidars.

List of Revenue Assignments and Pensions

1	2	3	4	5	6	7	8	9	10	11	12	13
No.	Name and description of assignees	Jagir or muafi where revenue of special land is assigned						Amount assigned where a fixed amount of revenue is assigned without specification of land	Nazrana	Cash pension per annum paid from the treasury or through the post office	Conditions of each grant	Remarks
		Area of land assigned				Amount of revenue assigned						
		Jamabandi No.	Cultivated	Uncultivated	Total		Revenue assessed					

Instructions

Enter the assignments in four groups and total each group separately namely:-

- A. Land of which the revenue is assigned in whole or in part to the owners thereof.
- B. Land of which the revenue is assigned to others than the owners thereof.
- C. Grants of fixed amounts out of the village jama, no land being specified.
- D. Pensions paid from the treasury or through the post office to persons resident in the estate.

Show under 'D' pensions of all kinds and whether civil or military or political.

If the grants held by an assignee fall under more than one of the above groups, each portion should be entered under the group to which it belongs.

Column 4—7—Abbreviate the entries as much as possible.

Column 13—State whether the nazrana has been paid. The Field Kanungo will add a note in this column or at the foot of the return explaining any difference between it and the previous returns.

The totals of columns 8 and 9 should agree with column 4 of the jama wasal baki.

**Maps to be filed
with the
Jamabandi**

8.91. As regards the maps to be filed with the jamabandi, the relevant instructions will be found in relevant paragraphs under chapter 6 surveys.

**Genealogical
tree**

8.92. An amended copy of the genealogical tree of owners complete to date shall be filed with the jamabandi. In these trees the first entries shall in every case be the names of the holders at the last settlement, the earlier entries being omitted. No general statements or entries of revenue need be made at the foot of those amended copies. In other respects the orders in Appendix VIII to the Settlement Manual apply to the amended copy of the shajra nasab. The new entries shall be attested by the Field Kanungo and he shall sign the paper in evidence thereof.

**Arrangement of
papers in
periodical
records**

8.93. The following instructions relate to the arrangement and binding of periodical records:-

- I. The sheets of jamabandi should be placed one upon the other as in a file of papers.
- II. The list of revenue assignments and pensions should come next, followed by the tatima shajras.
- III. Then should follow the mutation sheets.
- IV. Having arranged the papers in the above manner, sew them with a strong thread, but take care that it does not pass through any writing.
- V. Paste two or three pieces of paper together and cut to the size of the jamabandi, then place the jamabandi between the two covers thus prepared and join them together by pasting them by chints or gahra on the outside as it is done in binding. Boards should not be used. The shajra nasab should be placed in the pocket of the cover or if too large in separate cover.

In the case of jamabandis to be filed in the Tehsil binding can be done locally at the prevailing rates, and the charge can be met from the contingent grant. In the case of the patwari's copies of the jamabandi, paper bindings covered with chints or thin cloth should be provided.

**Checking of
Jamabandis by
Sadar
Kanungo**

8.94. All jamabandis must reach the district office by the date on which the Rabi Girdawari ends. On receipt the Sadar Kanungo should check them to see that all the instructions contained in paragraphs 8.83 to 8.90 supra have been complied with. If incomplete in any respect which admits of correct, they should be returned for completion.

**Use of Lan-
guage and ter-
minology in
revenue records.**

8.95 The language to be used in the revenue records shall be 'Hindi' in Devnagri script and every effort shall be made to use 'Hindi' terminology in the preparation of such records.

Appendix A
[see Paragraph 8.38 (6)]

Register of Mutation of Mauza Shallana Hadbast No. 27, Tehsil Rajgarh, District Sirmur, H.P.

1	2	3	4	5	6	7
			Entry in last Jamabandi which it is proposed to correct			
Serial No. of entry	Number of holding in old jamabandi	Name of Taraf Well	Name of owner, with description	Name of cultivator, with description	Detail of fields, area and soil	Revenue or rent
84	20/122 316/175 to 490	—	Sohan Singh son of Karam Singh son of Ram Singh, resident Shamlat-deh (Hasab-Rasad Zarkhewat or as the case may be). Total Jama of the village. Rs. 230/-	Owner Various owners and tenants	474 K. M. 7- 7 Barani Awal 1845 Kanals of which cultivated 830 kanals (unirrigated; uncultivated 1015 Kanals	Net revenue Rs. 1-45

1	8	9	10	11	12	13	14	15
		New entry which it is proposed to substitute						
Serial No. of entry	No. of holding in new jamabandi	Name of owner, with description	Name of cultivator, with description	Details of fields, area and soil	Revenue or rent	Nature and date of transfer or price of mortgage money	Mutation fee due	Report & orders
84	—	Sunder Singh son of Lehna Singh S/o Mohan Singh resident of Tehsil Solan H.P.	Khudkash	474 Barani Awal 7.7	Net revenue Rs. 1-45	Sold on 8th April, 1989 for Rs. 585 together with the share in Shamlat through Registered deed No. 405 dated 8-4-1989.	Rs. a.p. 0-25	Sir, Sohan Singh the owner, has sold 7 Kanals 7 marlas of his land with share in Shamlat to Sunder Singh and the vendee has taken possession. The case has been entered in the mutation register on receipt of Parcha Registry no. 10 dated 10-4-1989. Sd/- Prem Singh Patwari Dated 20-4-1989