

BENGAL REGULATION 1 OF 1793 [1]

(THE BENGAL PERMANENT SETTLEMENT REGULATION, 1793) [2]

[1st May 1793]

A Regulation for enacting into a Regulation certain Articles of a Proclamation bearing date the 22nd March, 1793.

1. The following articles of the proclamation relative to the limitation of the public demand upon the lands, addressed by the Governor-General in Council to the zamindars, independent talukdars and other actual proprietors of land paying revenue to Government, in the Provinces of Bengal, Bihar and Orissa, are hereby enacted into a Regulation, which is to have force and effect from the 22nd March, 1793, the date of the proclamation. Preamble.

PROCLAMATION

2. Art. I.—In the original Regulations for the decennial settlement of the public revenues on Bengal [*Bihar and Orissa*] passed for those Provinces, respectively, of the 18th September, 1789, the 25th November, 1789 and the 10th February, 1790, it was notified to the proprietors of land, with or on behalf of whom a settlement might be concluded, that the jama assessed upon their lands under those Regulations would be continued after the expiration of the ten years, and remain unalterable forever, provided such continuance should meet with the approbation of the Honourable Court of Directors for the affairs of the East India Company, and not otherwise. Decennial settlement declared conditionally permanent by original Regulations.

3. Art. II.—The Marquis Cornwallis, Knight of the Most Noble Order of the Garter, Governor-General in Council, now notifies to all zamindars, independent talukdars and other actual proprietors of land paying revenue to Government, in the Provinces of Bengal [*Bihar and Orissa*] that he has been empowered by the Honourable Court of Directors for the affairs of the East India Company to declare the jama, which has been or may be assessed upon their lands under the Regulations above mentioned, fixed forever. Power to declare jama assessed upon lands under those Regulations, fixed forever.

[1] The Regulation shall stand unmodified. But, as respect anything done or to be done after the commencement of Constitution, references to the Governor-General in Council shall be construed as references to the State Government, except that, as respects that period, references to the making or adaption of Regulations by the Governor-General in Council or the British Administrations shall be construed as references to the passing of Acts of the State Legislature.—*Vide* direction in the Adaptation Order, 1950.

[2] SHORT TITLE.—This short title was given by the Amending Act, 1997 (V of 1897) (since repealed).

LOCAL EXTENT.—This Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (XIV of 1874), section 3, to be in force in the districts of Goalpara (excluding the Eastern Duars) and Sylhet—*see* notifications Nos. 4242 J., dated 1st April 1897 and 1152-J., dated 3rd October 1879 in the Manual of Local Rules and Orders, Vol. I, together with Notification No. 713-L., dated 27th September 1937.

RULES AND ORDERS RELATING TO LAND REVENUE, APPLICABLE IN ASSAM.—*See* footnote (1) to the Assam Land and Revenue Regulation, 1886 (I of 1886), *post*.

Jama assessed upon lands of proprietors with whom settlement concluded fixed forever.

4. Art. III.—The Governor-General in Council accordingly declares to the zamindars, independent talukdars and other actual proprietors of land with or on behalf of whom a settlement has been concluded under the Regulations above mentioned, that at the expiration of the term of the settlement no alteration will be made in the assessment which they have respectively engaged to pay, but that they, and their heirs and lawful successors, will be allowed to hold their estates at such assessment forever.

Jama hereafter agreed to by proprietors whose lands are held khas or let in farm, fixed forever.

5. Art. IV.—The lands of some zamindars, independent talukdars and other actual proprietors of land, having been held khas, or let in farm, in consequence of their refusing to pay the assessment required of them under the Regulations above-mentioned, the Governor-General in Council now notifies to the zamindars, independent talukdars and other actual proprietor of land whose lands are held khas that they shall be restored to the management of their lands, upon their agreeing to the payment of the assessment which has been or may be required of them, in conformity to the Regulations above-mentioned, and that no alteration shall afterwards be made in that assessment, but that they, and their heirs and lawful successors, shall be permitted to hold their respective estates at such assessment forever:

and he declares to the zamindars, independent talukdars and other actual proprietors of lands whose lands have been let in farm, that they shall not regain possession of their lands before the expiration of the period for which they have been framed (unless the farmers shall voluntarily consent to make over to them the remaining term of their lease, and the Governor-General in Council shall approve of the transfer), but that at the expiration of that period, upon their agreeing to the payment of the assessment which may be required of them, they shall be reinstated, and that no alteration shall afterwards be made in that assessment, but that they, and their heirs and lawful successors, shall be allowed to hold their respective estates at such assessment forever.

Jama of land belonging to Government, but transferred to individuals, fixed forever.

6. Art. V.—In the event of the proprietary right in land that are, or may become, the property of Government being transferred to individuals, such individuals and their heirs and lawful successors, shall be permitted to hold the lands at the assessment at which they may be transferred forever.

Assessment in former times liable to variation at discretion of Government.

7. Art. VI.—It is well known to the zamindars, independent talukdars and other actual proprietors of land, as well as to the inhabitants of Bengal, Bihar and Orissa, in general, that from the earliest times until the present period the public assessment upon the land has never been fixed, but that, according to established usage and custom, the rulers of these provinces have from time to time demanded an increase of assessment from the proprietors of land; and that, for the purpose of obtaining this increase, not only frequent investigations have been made to ascertain the actual produce of their estates, but that it has been the practice to deprive them of the management of their lands, and either to let them in farm, or to appoint officers on the part of Government to collect the assessment immediately from the raiyats.

accordingly and other settlement mentioned, that operation will be engaged persons, will never. independent has been held to pay the above-men- proprietor restored to the pay- required of mentioned, and assessment, shall be assessment for

The Honourable Court of Directors, considering these usages and measures to be detrimental to the prosperity of the country, have, with a view to promote the future ease and happiness of the people, authorized the foregoing declarations; and the zamindars, independent talukdars and other actual proprietors of land, with or on behalf of whom a settlement has been or may be concluded, are to consider these orders fixing the amount of the assessment as irrevocable, and not liable to alteration by any persons whom the Court of Directors may hereafter appoint to the administration of their affairs in this country.

Motives of Court of Directors for abolishing usage and fixing assessment.

ant talukdars have been let their lands be- been fram- make over to Governor-Gener- that at the payment of they shall be be made in lawful succes- such assess-

The Governor-General in Council trusts that the proprietors of land, sensible of the benefits conferred upon them by the public assessment being fixed forever, will exert themselves in the cultivation of their lands, under the certainty that they will enjoy exclusively the fruits of their own good management and industry, and that no demand will ever be made upon them, or their heirs or successors, by the present or any future Government, for an augmentation of the public assessment in consequence of the improvement of their respective estates.

Proprietors expected to improve estates.

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To discharge the revenues at the stipulated periods without delay or evasion and to conduct themselves with good faith and moderation towards their dependent talukdars and raiyats, are duties at all times indispensably required from the proprietors of land, and a strict observance of those duties is now more than ever incumbent upon them, in return for the benefits which they will themselves derive from the orders now issued.

Conduct to be observed by proprietors towards dependent talukdars and raiyats.

independent as well as to al, that from the assessment ding to esta- ces have from om the pro- ining this in- made to ascer- has been the lands, and the part of sly from the

The Governor-General in Council therefore expects that the proprietors of land will not only act in this manner themselves towards their dependent talukdars and raiyats, but also enjoin the strictest adherence to the same principles in the persons whom they may appoint to collect the rents from them.

He further expects that, without deviating from this line of conduct, they will regularly discharge the revenue in all seasons, and he accordingly notifies to them, that, in future, no claims or application for suspensions or remissions, on account of drought, inundation or other calamity of seasons will be attended to, but that in the event of any zamindar, independent talukdar or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, or his or her heirs or successors, failing in the punctual discharge of the public revenue which has been or may be assessed upon their lands under the above-mentioned Regulations, a sale of the whole of the lands, of the defaulter, or such portion of them as may be sufficient to make good the arrear, will positively and invariably take place.

No claims for remissions or suspensions.

Sale of land for arrears.

3. Art. VII.—To prevent any misconstruction of the foregoing articles the Governor-General in Council thinks it necessary to make the following declarations to the zamindars, independent talukdars and other actual proprietors of land.

First.—It being the duty of the ruling power to protect all classes of people and more particularly those who from their situation are most helpless, the Governor-General in Council will, whenever he may deem it proper, enact such Regulations as he

Regulations for protection of raiyats, etc.

may think necessary for the protection and welfare of the dependent talukdars, raiyats and other cultivators of the soil ; and no zamindar, independent talukdar or other actual proprietor of land shall be entitled on this account to make any objection to the discharge of the fixed assessment which they have respectively agreed to pay.

Right of Government to all internal duties.

Second.—The Governor-General in Council having, on the 28th July, 1790, directed the *sâir* collection to be abolished, a full compensation was granted to the proprietors of land for the loss of revenue sustained by them in consequence of this abolition; and he now declares that, if he should hereafter think it proper to re-establish the *sâir* collections or any other internal duties, and to appoint officers on the part of Government to collect them, no proprietor of land will be admitted to any participation thereof, or be entitled to make any claims for remissions of assessment on that account.

and to jama alienated lands.

Third.—The Governor-General in Council will impose such assessment as he may deem equitable on all lands at present alienated and paying no public revenue which have been or may be proved to be held under illegal or invalid titles.

The assessment so imposed will belong to Government, and no proprietor of land will be entitled to any part of it.

Resumption of police allowances to proprietors.

Fourth.—The jama of those zamindars, independent talukdars and other actual proprietors of land, which is declared fixed in the foregoing articles, is to be considered entirely unconnected with, and exclusive of, any allowances which have been made to them in the adjustment of their jama, for keeping up thanas or police establishments, and also of the produce of any lands which they may have been permitted to appropriate for the same purpose, and the Governor-General in Council reserves to himself the option of resuming the whole or part of such allowances, or produce of such lands, according as he may think proper in consequence of his having exonerated the proprietors of land from the charge of keeping the peace, and appointed officers on the part of Government to superintend the police of the country.

The Governor-General in Council, however, declares that the allowances or produce of lands which may be resumed will be appropriated to no other purpose but that of defraying the expense of the police ; and that instructions will be sent to the Collectors not to add such allowances or the produce of such lands, to the jama of the proprietors of land, but to collect the amount from them separately.

Estate of disqualified proprietors not liable to sale for arrears.

Fifth.—Nothing contained in this proclamation shall be construed to render the lands of the several descriptions of disqualified proprietors, specified in the first Article of the Regulations regarding disqualified landholders, passed on the 15th July, 1791, liable to sale for any arrears [¹] which have accrued or may accrue on the fixed jama that has been or may be assessed upon their lands under the above-mentioned Regulations for the decennial settlement : provided that such arrears have accrued or may accrue

[¹] But see the Court of Wards Act, 1879 (Beng. Act IX of 1879) s. 23A (in Vol. II of this Code), which authorises the sale of estates, etc., for arrears of revenue which have accrued while the estates were under the charge of the Court of Wards.

during the time that they have been or may be dispossessed of the management of their lands under the said Regulations of the 15th July, 1791.

It is to be understood, however, that whenever all or any of the descriptions of disqualified landholders, specified in the first Article of the last-mentioned Regulations, shall be permitted to assume or retain the management of their lands, in consequence of the ground of their disqualification no longer existing, or of the Governor-General in Council dispensing with, altering or abolishing those Regulations, the lands of such proprietors will be held responsible for the payment of the fixed jama that has been or may be assessed thereon, from the time that the management may devolve upon them, in the same manner as the lands of all actual proprietors of land who are declared qualified for the management of their estates, and also of all actual proprietors who are unqualified for such management, by natural or other disabilities, but do not come within the descriptions of disqualified landholders specified in the first Article of the Regulations of the 15th July, 1791, are and will be held answerable, for any arrears that are or may become due from them, on the fixed jama which they, or any persons on their behalf, have engaged or may engage to pay, under the above-mentioned Regulations, for the decennial settlement.

9. Art. VIII.—That no doubt may be entertained whether proprietors of land are entitled, under the existing Regulations, to dispose of their estates without the previous sanction of Government, the Governor-General in Council notifies to the zamindars, independent talukdars and other actual proprietors of land that they are privileged to transfer to whomsoever they may think proper, by sale, gift or otherwise, their proprietary rights in the whole or any portion of their respective estates, without applying to Government for its sanction to the transfer, and that all such transfers will be held valid :

Proprietors may transfer lands without sanction of Government.

Provided that they be conformable to the Muhammadan or the Hindu Laws (according as the religious persuasions of the parties to each transaction may render the validity of it determinable by the former or the latter Code), and that they be not repugnant to any Regulations now in force, which have been passed by the British administrations, or to any Regulations that they may hereafter enact.

Proviso.

[¹] 10. Art. IX.—From the limitation of the public demand upon the lands, the net income, and consequently the value (independent of increase of rent obtainable by improvements), of any landed property, for the assessment on which a distinct engagement has been or may be entered into, between Government and the proprietor, or that may be separately assessed, although included in one engagement with other estates belonging to the same proprietor, and which may be offered for public or private sale entire, will always be ascertainable by a comparison of the

Rules for apportioning fixed jama on portions of estates of event of sale or transfer and on shares of estates.

[¹] The application of this section is extended by the Bengal Inheritance Regulation, 1793 XI of 1793, s. 4 *post*.

So much of the section as relates to the adjustment of the Government jama on lands exposed to public sale in satisfaction of decrees was repealed by Act IV of 1846, s.1.

amount of the fixed jama assessed upon it (which, agreeable to the foregoing declarations, is to remain unalterable forever, to whomsoever the property may be transferred), with the whole of its produce, allowing for the charges of management.

But it is also essential that a notification should be made of the principles upon which the fixed assessment charged upon any such estate will be apportioned on the several divisions of it, in the event of the whole of it being transferred by public or private sale, or otherwise, in two or more lots, or of a portion of it being transferred in one, or in two or more lots, or of its being joint property, and a division of it being made amongst the proprietors; otherwise, from the want of a declared rule for estimating the proportion of the fixed jama with which the several shares would be chargeable in such cases, the real value of each share would be uncertain, and consequently the benefits expected to result from fixing the public assessment upon the lands would be but partially obtained.

The Governor General in Council has accordingly prescribed the following rules for apportioning the fixed assessments in the several cases above-mentioned; but as Government might sustain a considerable loss of revenue by disproportionate allotments of the assessment, were the apportioning of it, in any of the cases above specified, to be left to the proprietors, he requires that all such transfers or divisions as may be made by the private act of the parties themselves be notified to the Collector [1] of the revenue of the zila in which the lands may be situated, or such other officer as Government may in future prescribe, in order that the fixed jama, assessed upon the whole estate, may be apportioned on the several shares in the manner hereafter directed, and that the names of the proprietors of each share and the jama charged thereon may be entered upon the public registers, and that separate engagements for the payment of the jama assessed upon each share may be executed by the proprietors, who will thence forward be considered as actual proprietors of land.

And the Governor General in Council declares that, if the parties to such transfers or divisions shall omit to notify them to the Collector [1] of the revenue of the zila or such other officer as may be hereafter prescribed, for the purposes before-mentioned, the whole of such estate will be held responsible to Government for the discharge of the fixed jama assessed upon it, in the same manner as if no such transfer or division had ever taken place.

The Governor General in Council thinks it necessary further to notify, in elucidation of the declarations contained in his Article (which are conformable to the principles of the existing Regulations), that if any zamindar, independent talukdar or other actual proprietor of land shall dispose of a portion of his or her lands as a dependent taluk, the jama which may be stipulated to be paid by the dependent talukdar will not be entered upon the records of Government, nor will the transfer exempt such lands from being answerable, in common with the remainder of the

[1] In Assam, the Deputy Commissioner. As to the exercise of functions of Deputy Commissioners, see the Assam Land and Revenue Regulation, 1886 (I of 1886), Chapter VII. *post.*

estate, for the payment of the public revenue assessed upon the whole of it, in the event of the proprietor, or his or her heirs or successors, falling in arrear from any cause whatever, nor will it be allowed, in any case, to effect the rights or claims of Government, any more than if it had never taken place.

First.—In the event of the whole of the lands of a zamindar, independent talukdar or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, under the Regulations above-mentioned being exposed to public sale by the order of the Governor-General in Council, for the discharge of arrears of assessment, or in consequence of the decision of a Court of Justice in two or more lots the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce as the fixed assessment upon the whole of the lands sold may bear to the whole of their actual produce.

This produce shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor-General in Council may hereafter adopt, and the purchaser or purchasers of such lands, and his or her or their heirs and lawful successors, shall hold them at the jama at which they may be so purchased, forever.

Second.—When a portion of the lands of a zamindar, independent talukdar or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded under the Regulations before-mentioned shall be exposed to public sale by order of the Governor-General in Council, for the liquidation of arrears of assessment, or pursuant to the decision of a Court of Justice, the assessment upon such lands if disposed of in one lot, shall be fixed at an amount which shall bear the same proportion to their actual produce as the fixed assessment upon the whole of the lands of such proprietor, including those disposed of, may bear to the whole of their actual produce.

If the lands sold shall be disposed of in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce as the fixed assessment upon the whole of the lands of such proprietor, including those sold, may bear to the whole of their actual produce.

The actual produce of the whole of the lands of such proprietor, whether the portion of them which may be sold be disposed of in one or in two or more lots, shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor-General in Council may hereafter enact, and the purchaser or purchasers of such lands, and his or her or their heirs or successors, will be allowed to hold them at the jama at which they may be so purchased, forever: and the remainder of the public jama, which will consequently be payable by the former proprietor of the whole estate, on account of the portion of it that may be left in his or her possession, will continue unalterable forever.

Third.—When a zamindar, independent talukdar or other actual proprietor of land with or on behalf of whom a settlement has been or may be concluded, shall transfer the whole of his or her estate in two or more distinct portions to two or more persons or a portion thereof to one person, or to two or more persons in joint property, by private sale, gift or otherwise, the assessment upon each distinct portion of such estate so transferred shall be fixed at an amount which shall bear the same proportion to its actual produce as the assessment upon the whole of the estate of the transferring proprietor, of which the whole or a portion may be so transferred, may bear to the whole of its actual produce.

This produce shall be ascertained in the mode that is or may be prescribed in the existing Regulations, or such other Regulations as Government may hereafter adopt, and the person or persons to whom such lands may be transferred and his or her or their heirs and lawful successors, shall hold them at the jama at which they may be so transferred, forever: and where only a portion of such estate shall be transferred, the remainder of the public jama which will consequently be payable by the former proprietor of the whole estate [1] on account of the lands that may remain in his or her possession shall be continued unalterable forever.

Fourth.—Whenever a division shall be made of lands, the settlement of which has been or may be concluded with or on behalf of the proprietor or proprietors, and that are or may become the joint property of two or more persons, the assessment upon each share shall be fixed at an amount which shall bear the same proportion to its actual produce as the fixed jama assessed upon the whole of the estate divided may bear to the whole of its actual produce.

This produce shall be ascertained in the mode that is or may be prescribed by the existing Regulations or such other Regulations as the Governor-General in Council may hereafter adopt, and the sharers, and their heirs and lawful successors, shall hold their respective shares at the jama which may be so assessed upon them, for ever.

Adjusting
jama of lands
held khas or
let in farm.

[2] 11. Art. X.—The following rules are prescribed respecting the adjustment of the assessment on the lands of zamindars, independent talukdars and other actual proprietors of land whose lands are or may be held khas or let in farm, in the event of their being disposed of by public sale, or transferred, by any private act of the proprietor, or of their being joint property and a division of them taking place amongst the proprietors.

First.—If the whole, or a portion of the lands of a zamindar, independent talukdar or other actual proprietor of land who may not have agreed to the payment of the assessment proposed to him or her under the Regulations above-mentioned, and whose lands are or may be held khas or let in farm, shall be exposed

[1] See in Clarke

[2] The application of s. 11 is extended by the Bengal Inheritance Regulation, 1793 (XI of 1793), s. 4, *Post*.

So much of s. 11 as relates to the adjustment of the Government jama on lands exposed to public sale in satisfaction of decrees was repealed by Act IV of 1846, s. 1, (since repealed).

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to public sale, in one or in two or more lots (pursuant to the decree of a Court of Justice), such lands, if khas, shall be disposed of at whatever assessment the Governor General in Council may deem equitable, and the purchasers, or purchasers of, such lands and his or her or their heirs and lawful successors, shall hold the lands at the assessment at which they may be so purchased for ever.

If the lands, at the time of their being exposed to sale, shall be held in farm, and shall be put up in one or in two or more lots, they shall be disposed of under the following conditions:—

The purchaser or purchasers shall receive, during the unexpired part of the term of the lease of the farmer, whatever such proprietor shall have been entitled to receive in virtue, of his or her proprietary rights, on account of the land so purchased, and such purchaser or purchasers shall engage to pay, at the expiration of the lease of the farmer such assessment on account of the lands as Government may deem equitable.

The sum to be received by the purchaser or purchasers during the unexpired part of the term of the lease of the farmer, and the jama to be paid by such purchaser or purchasers after the expiration of the lease, shall be specified at the time of the sale, and such purchaser or purchasers, and his or her or their heirs and lawful successors, shall be allowed to hold the lands at the assessment at which they may be so purchased, for ever.

Second.—If a zamindar, independent talukdar or other actual proprietor of land, whose lands are or may by held khas or let in farm, shall transfer by private sale, gift or otherwise, the whole or a portion of his or her lands in one or in two or more lots, the person or persons to whom the lands may be so transferred shall be entitled to receive from Government (if the lands are held khas), or from the farmer (if the lands are let in farm), the malikana to which the former proprietor was entitled on account of the land so transferred.

Persons to whom such lands may be so transferred will stand in the same predicament as the zamindars, independent talukdars or other actual proprietors of land mentioned in the Fourth Article, whose lands are held khas, or have been let in farm, in consequence of their refusing to pay the assessment required of them under the before-mentioned Regulations for the decennial settlement; and the declarations contained in that Article are to be held applicable to them.

Third.—In the event of a division being made of lands that are or may become the joint property of two or more persons, and which are or may be held khas or let in farm, the proprietors of the several shares will stand in the same predicament, with regard to their respective shares, as the zamindars, independent talukdars and other actual proprietors of land specified in the Fourth Article, whose lands have been let in farm or are held khas in consequence of their having refused to pay the assessment required of them under the before-mentioned Regulations for the decennial settlement; and the declarations contained in that Article are to be considered applicable to them.