

## BENGAL REGULATION 8 OF 1793

(THE BENGAL DECENNIAL SETTLEMENT REGULATION, 1793)

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## BENGAL REGULATION 8 OF 1793

(THE BENGAL DECENNIAL SETTLEMENT REGULATION, 1793)<sup>1</sup>

[1st May 1793.]

A Regulation for re-enacting, with modifications and amendments, the rules for the Decennial Settlement of the public Revenue payable from the lands of the *zamindars*, independent *talukdars* and other actual proprietors of land, in Bengal Bihar and Orissa, passed for those Provinces respectively on the 18th September, 1789; the 25th November, 1789; and the 10th February, 1790, and subsequent dates.

1-3. [Re-enactment of code of rules passed on 23rd November 1791; term of settlement; to be perpetual with approbation of Court of Directors.] Rep. by the Repealing Act, 1874 (16 of 1874).

4. The settlement under certain restrictions and exceptions hereafter specified, shall be concluded with the actual proprietors of the soil, of whatever denomination, whether *zamindars*, *talukdars* or *chaudris*. Settlement with whom to be concluded.

5-12. [What *talukdars* to be actual proprietors; payment of rent through actual proprietors; what *talukdars* to be lease-holders; *jangal-buri talukdars*; proprietors of *malguzari* *aima* lands; rules for guidance of Collectors, right of dissatisfied parties to sue in Court of *Diwani Adalat*.] Rep. by the Repealing Act, 1874 (16 of 1874).

13. *Talukdars* ordered to be separated are not to be permitted to pay the revenue assessed upon their lands through the *zamindars* or other actual proprietors of estates as heretofore. Payment of revenue by *talukdars* ordered to be separated.

<sup>1</sup>SHORT TITLE.—This short title was given by the Amending Act, 1897 (V of 1897), since repealed.

LOCAL EXTENT.—This regulation has been declared by notification under the Schedule Districts Act, 1874 (XIV of 1874), s. 3, to be in force in the Districts of Goalpara (excluding the Eastern Duars) and Sylhet—see Notification Nos. 1152-J., dated 3rd September 1879 and 1242-J., dated 1st April 1897 in the Manual of Local Rules and Orders, Vol. I, together with Notification No. 713-L., dated the 27th September 1937.



Separated  
talukdars  
where to  
pay reve-  
nue.

14. *Talukdars* who, in consequence of the rules in sections 5 and 9, <sup>1</sup>may be separated from the zamindars or other actual proprietors of estates, through whom they heretofore paid their revenues, are to pay their revenue in future immediately into the Collector's <sup>2</sup>treasury; except in districts where, from the number of taluks or other cause, this mode would be attended with considerable inconvenience, in which case tahsildars, or \* \* \* Collectors, are to be appointed to receive the revenue of the taluks in such districts.

**Tahsildars.** 15. Zamindars or other actual proprietors of land, from whose zamindari or estates, taluks may be separated, shall not be appointed tahsildars to receive the revenue of the taluks so separated, but the office of tahsildars shall, in every instance, be given to some other person of character and responsibility, and the whole expense of it is to be defrayed by Government.

16-18. [*Rules respecting mukarrari leases and mukarraridars*].  
*Rep. by the Repealing Act, 1876 (12 of 1876).*

<sup>1</sup>Sections 5 and 9 were repealed by the Repealing Act, 1874 (XVI of 1874), but this reference is saved by the proviso to that Act. The sections are as follows:—

"5. *First*.—The *Talukdars* to be considered the actual proprietors of the lands composing the taluks are the following:—

*Second*.—*Talukdars* who purchased their lands by private or at public sale, or obtained them by gift from the zamindar or other actual proprietor of land to whom they now pay the revenue assessed upon their taluks, or from his ancestors, subject to the payment of the established dues of Government, and who received deeds of sale, or gift of such land, from the zamindar, or sanads from the Khalsa, making over to them his proprietary rights therein.

*Third*.—*Talukdars*, whose taluks were formed before the zamindar or other actual proprietor of land to whom they now pay their revenue, or his ancestors, succeeded to the zamindari.

*Fourth*.—*Talukdars* the land comprised in whose taluks were never the property of the zamindar or other actual proprietor of the soil to whom they now pay their revenue, or his ancestors.

*Fifth*.—*Talukdars* who have succeeded to taluks of the nature of those described in the preceding clauses, by right of purchase, gift or inheritance from the former proprietor of such taluks."

"9. The rules in section 5, respecting taluks, have also been extended to aima lands liable to the payment of a fixed quit revenue, denominated *malguzari aima*; and, agreeable to the distinctions laid down in that section, it has been ordered, that such *malguzari aima* tenures as are held under grants of the Muhammadan Government previous to the Company's accession to the Diwani, or which have been since granted by proprietors of estates for a consideration received by them, are to be separated from the proprietors to whom their revenue is now paid, as coming within the spirit of the rules for the separation of talukdars who are proprietors of the lands composing their taluks. But *malguzari aima* tenures which may appear to have been *bona fide* granted for the purpose of bringing waste-lands into cultivation shall continue included in the estates to which they are now annexed, as coming within the rules in section 8, respecting *jaogol-bur* taluks."

<sup>2</sup>In Assam, the Deputy Commissioner. As to exercise of functions of Deputy Commissioners, see the Assam Land and Revenue Regulation, 1886 (I of 1886), Chapter VII, *post*.

<sup>3</sup>The word 'Native' omitted by A. O., 1950.

19. *Istimrardars*, however, who have not got possession of their lands to the exclusion, or without the consent of the actual proprietors, \* \* \*<sup>1</sup> but hold them of the proprietors on patta or lease, are to be considered as a species of patta talukdars, and the settlement is to be made with them as hereafter specified.

*Istimrardars* to be considered as *patta talukdars*.

20. The exceptions to the general order for the conclusion of the decennial settlement with actual proprietors of the soil, contained in section 4, include the following descriptions of persons; females (excepting those whom the<sup>2</sup> [State Government] may judge competent to the management of their own estates), minors, idiots, lunatics or others rendered incapable of managing their lands by natural defects or infirmities of whatever nature: \* \* \*<sup>3</sup> provided, however, with regard to the whole of these descriptions, that they are not partners in the Zamindaris, independent taluks or other estates held by them, with others of a different description, in which case themselves or guardians are allowed, with their partners to engage for the settlement of their lands, and elect a joint manager under the restrictions hereafter mentioned.

Exceptions to general order for conclusion of decennial settlement with actual proprietors of soil.

21. The lands of disqualified proprietors, coming within the above descriptions, are to be managed for the benefit of the proprietors by persons appointed to the trust by<sup>4</sup> [State Government] \* \* \*<sup>5</sup>.

Management of lands of disqualified proprietors.

22. A further exception has been made to proprietors in balance to Government, and unable to pay the arrears due from them; in which instances no settlement is to be concluded with the defaulting proprietors, but their lands are to be let in farm, or held khas, for a period of three years, at the discretion of the Collectors.<sup>6</sup>

Exception as to proprietors of land in balance to Government and unable to pay arrears.

23-25. [Settlement of undivided estates possessed by several proprietors; appointment of managers; when guardian of proprietors may vote in choice of manager; nomination of manager by Collector.] Rep. by Ben. Reg. 17 of 1805.

<sup>1</sup>The words and figures "as the *Mukarraridars* mentioned in section 18 are supposed to have done," which were repealed by the Amending Act, 1903, (I of 1903), are omitted.

<sup>2</sup>The words "Governor General in Council," in section 20 are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (I of 1903), since repealed. "Local Government" was substituted by "Provincial Government" by the A. O. 1937, the word "Provincial" has again been substituted by the word "State" by A. O. 1950.

<sup>3</sup>The words "and persons whom the Governor General in Council may deem disqualified on account of their contumacy or notorious profligacy of character," which were repealed by Ben. Reg. VII of 1796, s. 2, are omitted.

<sup>4</sup>The word "Government" in section 21 is to be read as if the words "the Local Government" were substituted therefor—see the Amending Act, 1903 (I of 1903), Sch. II, since repealed. "Local Government" substituted by "Provincial Government" by the A. O. 1937. The word "Provincial" has again been substituted by the word "State" by A. O. 1950.

<sup>5</sup>The words "in the mode prescribed in Regulation X, 1793, which also contains rules for the selection and conduct of such managers, as well as regarding the provision to be made for the support of the proprietors," which were repealed by the Repealing Act, 1874, (XVI of 1874), are omitted.

<sup>6</sup>In Assam, the Deputy Commissioner. As to exercise of functions of Deputy Commissioners, see the Assam Land and Revenue Regulation, 1886 (I of 1886), Chap. VII, *post*.



Determination of agreement to jama of undivided states. 26. The determination of the majority of the proprietors present under the restrictions specified in section 23<sup>1</sup>, is also to be binding on the remainder, in agreeing or disagreeing to the Jama proposed for undivided estates. The sharers, however, if dissatisfied, may obtain a division of their lands and a proportionate allotment of the revenue assessed thereon, but at their own expense.

Settlement of land standing in joint names of several proprietors, or of one for many. 27. When a portion of land stands in the joint names of several proprietors, or of one for many, but each proprietor, has his separate share in his own possession and management or in that of an agent for him, the settlement is to be made for each share with the person in possession, and his land is to be held exclusively responsible for the revenue assessed upon it.

28-29. [*Settlement of mortgaged lands settlement; when proprietors are not forthcoming.*] Rep. by the Repealing Act, 1876 (12 of 1876).

Settlement of disputed estates. 30. Where the property in lands is disputed, the settlement is to be made with the proprietor in possession, under an express declaration that he is nevertheless liable to the claims upon the estate, which is to be transferrable to any other person to whom the property may be subsequently adjudged.

If no claimant has been previously in possession. 31. If a case should occur in which none of the claimants shall have previously in possession, they are to be allowed to appoint a manager until their claims shall have been determined in the Diwani Adalat of the zilla; but if they should not agree to a manager, the lands are to be held khas, and the surplus produce after discharging the revenue, is to be kept in deposit, until the right of property shall be adjudged.

Settlement in case of disputes as to boundaries. 32. Where disputes exist concerning the boundaries of land, they are to be left to be adjusted in Diwani Adalat and the settlement is to be made in the meantime for the lands in possession of the disputing parties respectively.

33. [*Rules for fixing assessment.*] Rep. by the Amending Act, 1903 (1 of 1903).

<sup>1</sup> Section 23 was repealed by Ben. Reg. XVII of 1895. It ran as follows:

"23. Where more proprietors than one possess an undivided estates, and the whole of them be not within the description of disqualified landholders specified in section 20, the settlement is to be made with them jointly, and they are to be required to elect a *sarbarakhar* or manager, who shall have the exclusive management of their lands during the continuance of his appointment. The determination of the majority of the proprietors or of the majority of those present in the event of the absence of any is to be binding on the remainder in the choice of a manager; and, when the votes of the proprietors are equal, the elections of the manager is to be determined by the greater interests of the proprietors in the property. If in any case the interest also be equal, the manager is to be appointed by the Board of Revenue."



31. The allowances of the kazis and kanungos heretofore paid by the landholders, as well as any public pensions hitherto paid through the landholders, are to be added to amount of the jama, and in future paid by the Collectors [1] of the revenue of the several zilas, on the part of the Government, under the rules and restrictions laid down for their guidance, with regard to such payments, in the Resolutions passed by the Governor General in Council on the 10th June, 1791, and re-enacted with modifications, by Regulation 24, 1793 [2]

Allowances of kazis and kanungos, and Public pension, to be added to the jama.

35. The assessment is to be fixed exclusive and independent of all duties, taxes and other collections, known under the general denomination of *sair*; the collections made in the *ganjes*, *haths* and *bazars* situated within the limits of the town of Calcutta excepted, and excepting also the collections confirmed to the proprietors and holders of *ganjes*, *bazars*, and *haths* by the Resolutions passed by the Governor General in Council on the 11th of June, 1790.

Assessment to be fixed, exclusive of *sair*, with exceptions.

36. The assessment is also to be fixed exclusive and independent of all existing *lakhiraj* lands, whether exempted from the *lakhiraj* (or public revenue) with or without due authority.

Also exclusive of *lakhiraj* lands.

37. The above exemption, however, is not meant to include [the *malikana* lands in Bihar, or] the *nankar*, *khamar*, *nij jot* and other private lands of the zaminders and independent talukdars or other actual proprietors of land in Bengal and Midnapur regarding which the following rules have been prescribed.

But not of *malikana* lands and Bihar or other lands in Bengal and Midnapur.

33. [*Malikana* lands in Bihar to be re-annexed. Omitted as being inapplicable to Assam.]

39. The *nankar*, *khamar*, *nij jot* and other private lands appropriated by the zaminders, independent talukdars and other actual proprietors of land in Bengal [and Orissa] to the subsistence of themselves and families shall be also annexed to the *malguzari* lands, and the ten years' *jama* fixed upon the whole under the following modification; that such proprietors as may decline to engage for their lands be allowed the option of retaining possession of their private lands above specified, upon the terms on which they have hitherto possessed them, provided they shall prove, to the satisfaction of the Board of Revenue<sup>4</sup> that they held them under a similar tenure previous to the 12th August, 1765 the date of the grant of the *Diwani* to the Company, and have hitherto been permitted to keep possession of them whenever their zamindaris or estates have been held *khas* or let in farm, but not otherwise.

*Nankar*, *khamar*, *nij jot* and other private lands of proprietors in Bengal and Orissa to be annexed to the *malguzari* lands.

<sup>1</sup> In Assam, the Deputy Commissioner. As to exercise of functions of Deputy Commissioners, see the Assam Land and Revenue Regulation, 1886 (I of 1886), Chap. VII, *post*.

<sup>2</sup> Ben. Reg. XXIV of 1793 was repealed by the Pensions Act, 1871 (XXIII of 1871.)

<sup>3</sup> The second sentence of s. 35, which was repealed by the Repealing Act, 1874 (XVI of 1874), is omitted.

<sup>4</sup> In Assam, the Chief Commissioner (Now the State Government)—see the Bengal, Bihar and Orissa and Assam Laws, Act, 1912 (VII of 1912), s. 3. and Sch. D, Pt. III, *post*, as adapted by A.O. 1950.



In the event of such proof, and of their availing themselves of the option above given to retain possession of their private lands, a deduction, adequate to the nett produce of such lands is to be made from the amount of the allowance fixed for exclude proprietors by section 44.<sup>1</sup>

Consolidation of malguzari and private lands also in certain taluks. 40. The above consolidation of the malguzari and private lands is also to be made in the taluks continued under the proprietors on whom they have hitherto been dependent; not, however with a view of increasing the rents of the talukdars, but in order to make the whole of the lands composing their taluks answerable for their proportion of the public assessment allotted thereon.

Chakaran annexed to malguzari lands. 41. The chakaran lands or lands held by public officers and private servants in lieu of wages, are also not meant to be included in the exception contained in section 36. The whole of these lands in each [State]<sup>2</sup> are to be annexed to the malguzari lands and declared responsible for the public revenue assessed on the zamindaris, independent taluks or other estates in which they are included, in connection with all other malguzari lands therein.

42. [Engagements for the jama to be for Sicca rupees.] Rep. by the Repealing Act, 1874 (16 of 1874).

Procedure in case of landholders declining to engage for jama proposed to them. 43. In the event of any proprietor declining to engage for the settlement of his lands at the jama proposed to him, the Collector<sup>3</sup> is to communicate the objections offered, with his opinion respecting them, to the Board of Revenue.<sup>4</sup>

That Board<sup>4</sup> is to determine the proper assessment after making such further inquiries as they may think necessary, and the objecting proprietor is to be required to engage for such assessment without further delay; and in the event of his refusal which is to be given in writing, his lands are to be let in farm or held khas, as the Board of Revenue [<sup>5</sup>] may in each instance think most expedient.

44-47. [Proprietor refusing to engage for the jama to receive malikana rules respecting payment of malikana and enforcement of payment from farmers. [Rep. by the Repealing Act, 1874 (16 of 1874).]

<sup>1</sup> Section 44 was repealed by the Repealing Act, 1874 (XVI of 1874), but this reference is saved by the proviso to that Act. The section ran as follows:—

"44. Proprietors who may finally decline engaging for the jama proposed to them, and whose lands may consequently be let in farm or held khas, are to receive malikana (an allowance in consideration of their proprietary rights) at the rate of 10 per cent. on the said jama of their lands if let in farm, or at the same rate on the nett collections from their lands, if held khas, viz., on the nett amount realised by Government, after defraying the malikana as well as all other charges. But of this allowance, however, a provision is to be made for such persons belonging to the families of the proprietors as may be entitled thereto."

<sup>2</sup> Substituted for the word 'Province' by A.O., 1950

<sup>3</sup> In Assam, the Deputy Commissioner. As to exercise of functions of Deputy Commissioner, see the Assam Land and Revenue Regulation, 1886 (I of 1886), Chap. VII, *post*.

<sup>4</sup> In Assam, the Chief Commissioner (Now, the State Government) —see the Bengal, Bihar and Orisa and Assam Laws Act, 1912 (VII of 1912), s. 3 and Sch. D, Pt. III, *post*, as adapted by A. O. 1950.



48. [Settlement by proprietors with talukdars under them.] Rep. by the Repealing Act, 1876 (12 of 1876).

49. It is to be understood, however, that istimrardars (mukarraridars) of the nature of those described in sections 18,<sup>1</sup> who have held their land at a fixed rent for more than twelve years, are not liable to be assessed with any increase, either by the officers of Government or by the zamindar or other actual proprietor of land, should he engage for his own lands. Certain istimrardars not liable to increase of rent.

With regard to such istimraradars also as have not held their lands at a fixed rent for so long a period, if the zamindar or other actual proprietor of land has bound himself by the deed which he may have executed not to lay any increase upon them, he shall not be allowed to infringe the conditions of the deed for his own benefit, but must confine his demands to the rent he may have voluntarily agreed to receive.

50. This last restriction imposed on the zamindar or other actual proprietor of land, in section 49, is not to be considered to preclude the officer of Government or farmer, in the event of the zamindari being held khas or let in farm, from assessing such istimraradars according to the general rate of the district. Exception in above.

51. [Rules to prevent undue exactions from talukdars.] Rep. by the Goalpara Tenancy Act, 1929 (Assam Act I of 1929) and the Sylhet Tenancy Act, 1936 (Assam Act XI of 1936).

52-54. (Power of actual proprietors to let remaining lands as they think proper; Lands so let not be taken charge of without amilnama; Process to prevent imposition on rayats under denomination of abwab, mathat, etc.) Rep. by the Goalpara Tenancy Act, 1929 (Assam Act I of 1929) and the Sylhet Tenancy Act, 1936 (Assam Act XI of 1936).

[<sup>3</sup>] 55. No actual proprietor of land or dependent talukdar or farmer of land, of whatever description, shall impose any new abwab or mathat upon the rayats under any pretence whatever. Every exaction of this nature shall be punished by a penalty equal to three times the amount imposed; and if, at any future period, be discovered that new abwab or mathat have been imposed, the person imposing the same shall be liable to this penalty for the entire period of such impositions. Proprietors and farmers of land prohibited imposing new abwab or mathat on rayats.

56-57. [Variations of paltas according to articles of produce; what paltas delivered to rayats shall contain.] Rep. by the Repealing Act, 1876 (12 of 1876).

<sup>1</sup> S. 18 was repealed by the Repealing Act, 1876 (XII of 1876), but this reference is saved by the proviso to that Act. The section ran as follows:—

"18. Mukarraridars holding lands of which they are not the actual proprietors and whose Mukarrari grants have been obtained since the Company's accession to the Diwani and never received the sanction of the Supreme Government, are to be dispossessed, and the settlement is to be made with the actual proprietors of the soil under this Regulation.

In cases, however where such mukarraridars have been in possession of their mukarraris for a term exceeding twelve years, they are to receive during their lives (subject to the pleasure of the Honourable Court of Directors) the difference between the jama at which they held the lands and that which may be now agreed to by the actual proprietors, added to the net produce of the authorised sair, resumed or abolished.

<sup>2</sup> For a restriction on the enhancement of rent in the districts of Goalpara (excepting the permanently-settled estates) and Sylhet, see the Landlord and Tenant Procedure Act, 1869 (Ben. Act VIII of 1869), s. 16, printed post.

[<sup>3</sup>] This section was repealed by the Sylhet Tenancy Act, 1936 (Assam Act XI of 1936) so far as the district of Sylhet is concerned. The section will have application to Goalpara only.

58. [Forms of pattas.] Rep. by the Bengal Land Revenue Sale Regulation<sup>1</sup> 1812 (5 of 1812), s. 3.

59-60. [Right of raiyats to demand patta; existing leases to remain in force, until period of expiration; restriction on cancelling pattas of khudkast raiyats.] Rep. by the Repealing Act, 1876 (12 of 1876).

61. [Time allowed for delivery of pattas to raiyats.] Rep. by the Repealing Act, 1874 (16 of 1874).

62. [Rules regarding patwaris.] Rep. by the Bengal Putwaris Regulation, 1817 (12 of 1817), as extended by the Bengal Kamungos and Patwaris Regulation, 1819 (1 of 1819), s. 4(2).

63. [Proprietors to give receipts for rent or revenue received, and not to demand rent of absconded raiyats from those who remain.] Rep. by the Repealing Act, 1874 (16 of 1874).

64-65. (Adjustment of musassal kist-bandis; Bar to engagement contrary to Regulation.) Rep. by the Goalpara Tenancy Act, 1929 (I of 1929); and the Selhet Tenancy Act, 1936 (XI of 1936).

66. Zamindars, independent talukdars and other actual proprietors of land, dependent talukdars, farmers of land holding farms immediately of Government, and all persons farming lands of the above-mentioned descriptions of landholders and farmers of land, and their respective officers, agents, servants, dependents and raiyats, are prohibited from taking cognizance of, or interfering in, matters or causes coming within the jurisdiction of the Courts of Civil Judicature \* \* \* <sup>1</sup> or the Magistrates, under pain of being liable to the payment of such fine to Government, and damages to the party injured, as the Court of Judicature in which they may be prosecuted for the act may deem it proper to impose and award.

Landholders,  
etc., not to  
interfere in  
matters  
coming with-  
in cognizance  
of Courts or  
magistrates.

67. First to Fourth. [Restrictions in the Nabuliyats to be in force proprietors entitled to sell or mortgage their estates from date of settlement rules regarding recovery of arrears from raiyats; withdrawal of police jurisdiction from proprietors.] Rep. by the Repealing Act, 1876 (12 of 1876).

Collector  
to attend to  
spirit of Re-  
gulation  
where not  
applicable to  
particular  
districts.

Fifth.—In the original rules above-mentioned it was also directed that, if in any instance the Regulations should appear inapplicable to the circumstances of any particular district, the Collector<sup>2</sup> should attend to the spirit of them, and carry them into execution in such mode as circumstances might allow, reporting any alterations or modifications which he might deem necessary.

This rule is to be considered still in force in forming any settlements which remain to be concluded, but it is not to be construed to empower the Collector<sup>2</sup> to exercise any judicial authority.

Sixth.—[Settlement under regulations in force prior to the original rules for the decennial settlement]. Rep. by the Repealing Act, 1876 (12 of 1876.)

78-101. [Special orders for Bengal, Bihar, Midnapur and Salt Districts.] Rep. by the Repealing Act, 1874 (16 of 1874.)

<sup>1</sup> The words "or the Courts, of" which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

<sup>2</sup> In Assam, the Deputy Commissioner. As to exercise of functions of Deputy Commissioners, see the Assam Land and Revenue Regulation, 1886 (1 of 1886), Chapter VII, *post*.