

THE PANJÁB LAND-REVENUE ACT, 1871.

CONTENTS.

Preamble.

PRELIMINARY.

SECTIONS.

1. Short title,
Local extent,
Commencement,
'Estate' defined.

CHAPTER I.

REVENUE OFFICERS.

2. Grades of Revenue Officers.
3. Appointment and removal of Financial Commissioner.
4. Appointment and removal of Commissioners, Deputy Commissioners and Tahsildárs.
5. Assistant Commissioners, &c., may be invested with powers of Deputy Commissioner.
6. Rules as to village officers.

CHAPTER II.

OF SETTLEMENTS.

7. Settlement in progress.
District under settlement.
8. Person settled with.
9. Instructions for settlement to state principle of assessment.
10. Three kinds of settlements.
11. Notification of settlement.
12. Power to amend notification.
13. Local Government may remove Settlement Officers and appoint new ones.
14. Of what documents records of rights are to consist.
Maps and measurements.
Statement of occupants and owners.
Tender of engagement.
Statement of holdings, amount of revenue payable, &c.
Terms of payment and village customs.
Abstract of proceedings at settlement.

15. Form

a 30

SECTIONS.

15. Form, language and contents of documents.
16. Proof and effect of decisions by Settlement Officers. Authenticated entries in record of rights to be presumed true.
17. Sanction of settlement.
18. Revision of record of rights.
19. Time and manner of revision.
20. Suit for declaration that an entry is incorrect. Effect of decree.
21. Amendment of section two, Act XXVIII of 1868.
22. Erection and repair of boundary-marks.
23. Power to issue commissions to take evidence, or for local investigations, and to refer to arbitration.
24. Power to compel attendance of witnesses.
25. Power to enter lands to make surveys, &c.
26. What to be deemed to belong to owners of estates.
27. Settlement of waste lands in excess. Allowance to owners refusing such settlement.
28. Presumption of ownership of forests, waste lands, &c., in regular settlements made before passing of Act.
29. Mines to be deemed to belong to Government.

CHAPTER III.

ENGAGEMENTS FOR PAYMENT OF LAND-REVENUE.

30. With whom settlement is to be made.
31. Settlement Officer to report amount of assessment and how computed.
32. Financial Commissioner to give instructions as to terms.
33. Effect of agreement to offer. Offer may be refused.
34. Offer to be binding until refusal is notified.
35. Liability of land-owners in an estate.
36. If headmen accept, village community is bound.
37. Effect of refusal to offer. Allowance to persons excluded.
38. Land to be held on terms of expired settlement until new one is made.

CHAPTER IV.

MAINTENANCE OF THE RECORD OF RIGHTS.

39. Recording of facts affecting record of rights.
40. Rules for such recording.
41. Rules for settlement of lands of which revenue is resumed, &c.

CHAPTER V.

CHAPTER V.

COLLECTION OF LAND-REVENUE.

SECTIONS.

42. Local Government may make rules as to payment of revenue.
Revenue to be paid at place and on day appointed.
Effect of non-payment.
43. Procedure for recovery of arrears.
Warrant.
Detention at head quarters of Deputy Commissioner.
Imprisonment in civil jail.
Distrain and sale of moveables.
Conduct of sale.
When defaulter may be discharged.
44. When Civil Court may interfere.
45. Party proceeded against may pay under protest and sue for recovery.
46. Land may be attached and taken under direct management.
Powers and obligations of agent.
Application of surplus profits.
Termination of management.
47. Transfer of share of defaulter to solvent co-sharers.
48. When transfer of share is to become absolute.
49. Sections 47 and 48 to apply to mortgagees and other incumbrancers.
50. Processes not to affect joint and several liability of community.
51. Notice to cancel settlement.
Service of notice.
52. On cancelment of settlement land may be managed by agent or let in farm.
Lease to be first offered to owners of land.
53. Persons dispossessed to have allowance.
54. Farmer of share in village community when not liable for revenue of other shares.
55. Attachment of interest of defaulter in other land.
56. What may be sold.
When house or land may not be sold.
57. Land to be sold free of incumbrances.
58. Procedure to be followed in sales.
59. Suit to set aside sale.
60. Application of proceeds of sale.
61. Rules as to payment of surplus to creditors.
62. Purchaser's liability.
63. Application of Act to existing arrears.

CHAPTER VI.

CHAPTER VI.

MISCELLANEOUS.

SECTIONS.

64. Powers for recovery of revenue other than land-revenue.
65. Limitation of jurisdiction of Civil Courts.
Appeal.
Power to call for record of proceedings.
Conduct of proceedings.
Fees.
66. Power to make rules for purposes of Act.
67. Periodical re-publication of rules.
Operation of existing rules.

ACT No. XXXIII OF 1871.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the 18th
November 1871).*

An Act to consolidate and define the law relating to the settlement and collection of land-revenue in the Panjáb, and for other purposes.

WHEREAS the Government of India is by law entitled to a proportion of the produce of the land of the Panjáb to be from time to time fixed by itself; and whereas it is expedient to consolidate and define the law relating to the settlement and collection thereof, and to the duties of Revenue Officers in the Panjáb; It is enacted as follows:—

Preamble.

PRELIMINARY.

1. This Act may be called "The Panjáb Land-Revenue Act, 1871:—"

Short title.

It extends to the territories subject to the Lieutenant-Governor of the Panjáb, but not so as to affect the validity of any Regulation made by the Governor General under the provisions of 33 Vic., Cap. 3, for any portion of the territories to which this Act extends;

Local extent.

And it shall come into force on the first day of January 1872.

Commencement.

For the purposes of this Act, "Estate" means a village or other local area with which a separate settlement is made.

'Estate' defined.

CHAPTER I.

CHAPTER I.

REVENUE OFFICERS.

Grades of
Revenue
Officers.

2. There shall be in the Panjáb the following grades of Revenue Officers :—

(1) the Financial Commissioner, who shall, subject to the Lieutenant-Governor, be the chief controlling revenue authority in the Panjáb;

(2) Commissioners, each of whom shall, subject to the control of the Financial Commissioner, be the chief controlling revenue authority within a division;

(3) Deputy Commissioners, each of whom shall, subject to the control of the Commissioner, be the chief executive revenue authority in a district;

(4) Tahsildárs, each of whom shall, subject to the control of the Deputy Commissioner, be the chief executive revenue authority in a tahsíl or sub-district.

Appointment
and removal
of Financial
Commis-
sioner.

3. The Financial Commissioner shall be appointed and may be removed by the Local Government with the previous sanction of the Governor General in Council.

Appointment
and removal
of Commis-
sioners,
Deputy Com-
missioners,
and Tahsil-
dárs.

4. Commissioners and Deputy Commissioners shall be appointed and may be removed by the Local Government.

Tahsildárs shall be appointed and may be removed by the Deputy Commissioner with the previous sanction of the Financial Commissioner.

Assistant
Commis-
sioners, &c.,
may be invest-
ed with
powers of
Deputy Com-
missioner.

5. The Local Government may invest any Assistant Commissioner or Extra Assistant Commissioner with all or any of the powers hereinafter conferred upon Deputy Commissioners.

The Deputy Commissioner may distribute amongst the Assistant Commissioners, Extra Assistant Commissioners and other subordinate officers of his district, as he thinks proper, such revenue duties as, under this or any other Act in force for the time being, they are authorized to perform.

Rules as to
village
officers.

6. The Local Government shall make rules as to the appointment, duties, payment and removal of Lambardárs or Village Headmen, Patwárs or Village Accountants, Kanungos or Superintendents of Village

Accountants,

Accountants, such regard as the Local Government thinks fit being had to custom or descent.

Where by any such rule the appointment of Patwáris is directed to be made by the landowners of a village, the neglect or refusal of such landowners to make any such appointment within a prescribed time shall be punishable with such fine as the Local Government directs : and such fine shall be recoverable as an arrear of land-revenue.

CHAPTER II. OF SETTLEMENTS.

7. Whenever the amount of revenue to be paid in a district or other local area is being assessed or re-assessed, or whenever the record of rights hereinafter described is being either made or revised under the provisions hereinafter contained, a settlement is said to be in progress ; a district or other local area in which a settlement is in progress is said to be under settlement.

Settlement in progress.

District under settlement.

8. Whenever any person or persons are permitted to engage with the Government for the payment of revenue due in respect of any land, they are said to be settled with, or a settlement is said to be made with them in respect of that land.

Person settled with.

9. The Local Government shall, with the previous sanction of the Governor General in Council, give written instructions to the officer in charge of a settlement, stating the principle on which the revenue in such settlement is to be assessed. No Court of justice shall be entitled, under any circumstances, to require the production, or shall permit evidence to be given of the contents, of such instructions.

Instructions for settlement to state principle of assessment.

10. Settlements may be of the following kinds :—

Three kinds of settlements.

(1) a summary settlement is a provisional settlement, made pending a first regular settlement : the declaration of the Local Government that a settlement was summary shall be conclusive proof that it was so ;

(2) a

(2) a first regular settlement is a settlement in which the revenue is assessed, and a record of rights is, for the first time, formed;

(3) a re-settlement is a settlement, subsequent to a first regular settlement, in which either the revenue is re-assessed, or the record of rights is revised, or in which both these processes are conducted.

Notification
of settlement.

11. Whenever a district or other local area is to be put under settlement, the Local Government shall, with the previous sanction of the Governor General in Council, issue a notification of settlement.

Such notification shall—

(1) define the local area which is to be put under settlement;

(2) mention such of the officers by whom it is to be made as to the Local Government seems fit; and, in every case in which judicial powers are conferred, shall specify the powers so conferred: the officers so mentioned shall be called Settlement Officers, and the principal officer so mentioned shall be the officer in charge of the settlement;

(3) declare whether the settlement is a summary settlement, a first regular settlement, or a re-settlement; and, in the case of a re-settlement, whether there is to be a re-assessment of revenue, or revision of the record of rights, or both;

(4) declare whether surveys and plans are to be made, and, in the case of a first regular settlement, whether the boundaries of villages and estates are to be adjusted.

Power to
amend noti-
fication.

12. The Local Government may, with the previous sanction of the Governor General in Council, from time to time amend the settlement notification, and may prescribe the order in which the Settlement Officers shall discharge their duties, or alter the duties to be discharged by them.

Local Gov-
ernment may
remove Set-
tlement Offi-
cers and
appoint new
ones.

13. The Local Government may remove any of the Settlement Officers mentioned in the notification, and appoint others to succeed them, or to act for them during their temporary absence.

14. Records

14. Records of rights hereafter to be made shall consist of the following documents:—

Of what documents records of rights are to consist.

(1) maps and measurement papers, showing the boundaries of the village or place in respect of which the settlement is to be made, and the fields into which it is divided :

Maps and measurements.

(2) a statement of the occupiers and owners of the fields specified in the said maps, and of the lands occupied or owned by them, and of the terms on which they are so owned or occupied :

Statement of occupants and owners.

(3) a tender on behalf of the person or persons settled with to engage for the payment of the revenue during the term for which the settlement is made :

Tender of engagement.

(4) a statement of the shares or holdings of the different persons settled with, and of the amount of revenue for which, as between each other, they are to be responsible; and a statement of persons holding lands free of revenue and of the lands so held :

Statement of holdings, amount of revenue payable, &c.

(5) a statement of the terms on which the persons settled with agree to pay the revenue assessed, and of the customs of the village or place in respect of which the settlement is made; such statement shall be so arranged as to distinguish such customs as regulate—

Terms of payment and village customs.

(a) the relations of the persons settled with to the Government :

(b) the relations of the persons settled with towards one another :

(c) the relations of the persons settled with to other persons :

(6) an abstract of the proceedings at the settlement, which shall contain a statement of all judicial decisions passed by the Settlement Officers in the course of the settlement.

Abstract of proceedings at settlement.

15. The Local Government shall from time to time prescribe the form, language and contents of each of the documents mentioned in the last preceding section, and the manner in which each shall be prepared, signed and attested; and may direct, either

Form, language and contents of documents.

generally

generally or in any particular case, other documents besides those specified to be contained in the record of rights.

Proof and effect of decisions by Settlement Officers.

16. Judicial decisions passed by Settlement Officers shall be proved in the same manner, and shall have, when proved, the same effect, as judgments delivered by Civil Courts.

Authenticated entries in record of rights to be presumed true.

Entries in the record of rights made or authenticated at a regular settlement or re-settlement in the manner prescribed by the Local Government shall be presumed to be true.

Sanction of settlement.

17. A settlement notified under section eleven shall be deemed to be in progress until sanctioned by the Local Government. Such sanction may be either

(1) of the record of rights, or

(2) of the assessment, or

(3) of the record of rights and of the assessment.

The Local Government, on the report of the Financial Commissioner that the operations of the settlement are complete, may, previous to sanction, direct that the record of rights be handed over to the Deputy Commissioner of the district, and that the special jurisdiction conferred on any officer under section twenty-one or twenty-two of the Panjáb Courts Act, 1865, shall cease, and that the suits pending in the Courts of any such officers, or appeals from, or applications for the review of, the judgments of such officers, be transferred to the ordinary Civil Courts, or to the Court of any officer appointed by the Local Government for the purpose of disposing of such suits, appeals or applications.

Revision of record of rights.

18. The assessment or record of rights may be revised if the Local Government so directs, at any time before they are sanctioned respectively.

Time and manner of revision.

19. When a record of rights made in any district or other local area at a regular settlement has been sanctioned, it shall not be revised until such district or local area is again put under settlement, nor shall it at such subsequent settlement be revised otherwise than by

(a) making

(a) making entries in accordance with facts which have occurred since the date of the abstract specified in clause six of section fourteen ;

(b) making such alterations of the record as are agreed to by all the parties interested therein, or are supported by a judicial decision ;

(c) making new maps, surveys or measurement, when the Local Government so directs, and amending such of the documents of the record of rights as depend thereon, so as to accord with such new maps, surveys or measurement ; but not so as to alter any statement as to the share or holding or status of any person, except in the cases mentioned in clauses (a) and (b) of this section.

20. Any person who considers that he is aggrieved as to any right of which he is in possession, by any entry made in a record of rights, may, after such record of rights has been sanctioned, bring a suit in a Civil Court for a declaration that such entry is incorrect, and that a different entry ought to have been made. The Government and every person interested in such entry shall be made defendants in every such suit.

Suit for declaration that an entry is incorrect.

A decree obtained in such suit shall be of the same effect as if the entry which it declares to be correct had been made originally in the record of rights.

Effect of decree.

The provisions of this section shall not apply to any entry having the force of an agreement under section two of the Panjáb Tenancy Act, 1868, as amended by this Act.

21. Instead of the last clause of section two of the Panjáb Tenancy Act, 1868, the following shall be read : "All entries in such record, made previously to the passing of the Panjáb Land-Revenue Act, 1871, in respect of matters comprised in Chapters III, IV, V and VI of this Act, shall, when attested by the proper officer, be deemed to be agreements within the meaning of this section."

Amendment of section two, Act XXVIII of 1868.

22. Any Revenue Officer, and, in a district under settlement, any Settlement Officer, may, by a notice in writing, require the persons liable for the revenue of any village, estate or field to erect or repair boundary

Erection and repair of boundary-marks.

dary

dary-marks sufficient for defining the limits of such village, estate or field; and if such boundary-marks are not so constructed or repaired within a period to be specified in the notice, such Revenue or Settlement Officer may cause boundary-marks to be so erected or repaired; and the cost of such erection or repair shall be recoverable from the persons liable for the revenue of such village, estate or field, as if it were an arrear of land-revenue due in respect of such village, estate or field.

Power to issue commissions to take evidence, or for local investigations, and to refer to arbitration.

23. Settlement Officers may issue commissions to take evidence, or for local investigations, according to the provisions of the Code of Civil Procedure, and may, if empowered by the Local Government, refer any matter in dispute to arbitrators, whether with or without the consent of parties. The arbitrators to be appointed under this section shall exercise such powers, proceed in such manner, and their finding shall be liable to such appeal, as the Local Government directs.

Power to compel attendance of witnesses.

24. Settlement Officers shall have the same power to compel the attendance of all persons whom they believe to be able to give them information as to the matters into which they are empowered to inquire under the notification mentioned in section eleven, as the Judges of Civil Courts have to procure the attendance of witnesses under the Code of Civil Procedure; and all persons who appear before such officers are bound to state the truth upon all such matters, and to produce such documents and other things as may be required of them.

Power to enter lands to make surveys, &c.

25. Settlement Officers and the servants and workmen employed by them, shall have the powers specified in the Land Acquisition Act (X of 1870), section four, for the purpose of making such plans and surveys as are directed by the said notification, and of collecting such information as to the quality and produce of the land as may be necessary to enable them to assess the revenue to be paid thereon.

What to be deemed to belong to owners of estates.

26. In regular settlements to be made hereafter, unless it is otherwise expressly provided in the records of the settlement, all forests, unclaimed, unoccupied, deserted or waste lands, quarries, spontaneous produce

produce and other accessory interests in land shall be deemed to belong to the owners of the estate within the boundaries of which they are at such settlement included.

27. When the waste land belonging to or adjoining an estate is so extensive as, in the opinion of the Deputy Commissioner or officer in charge of a settlement, to exceed the requirements of the owners of such estate with reference to pasturage or other useful purpose, such Deputy Commissioner or officer may at any time, with the sanction of the Financial Commissioner, make a separate settlement of the waste land which he considers to be so in excess, and shall offer such waste land at such assessment, for such term and on such conditions as he thinks fit to the owners of the estate to which it belongs, and if they refuse such offer, to the owners of any estate to which such waste land adjoins; and if they refuse such offer, to any other person :

Settlement of waste lands in excess.

Provided that, where the owners of the estate to which such waste land belongs refuse such offer, the Deputy Commissioner shall assign to them an annual allowance not less than five and not more than ten per cent. on the nett proceeds realized by Government from such waste lands.

Allowance to owners refusing such settlement.

28. In regular settlements made before the passing of this Act, unless it is otherwise expressly provided in the records of such settlement, all forests, unclaimed, unoccupied, deserted or waste lands, quarries, spontaneous produce and other accessory interests in land, whether included within the boundaries of an estate or not, shall be presumed to belong to the Government.

Presumption of ownership of forests, waste lands, &c., in regular settlements made before passing of Act.

This presumption may be defeated by showing, from the assessment of the estate, that any such forest, unclaimed, unoccupied, deserted or waste land, quarry, spontaneous produce or other accessory interest was taken into account in such assessment; in which case any thing which was so taken into account shall be presumed to belong to the owners of the estate so assessed.

The

The question whether any such forests, unclaimed, unoccupied, deserted or waste lands, quarries, spontaneous produce, or other accessory interests were or were not taken into consideration in determining the amount of revenue to be assessed, shall be determined by a consideration of the reports made by the Settlement Officer to Government at the time of settlement, or, if the report is silent, by a comparison between the rates assessed in villages in which such forests, unclaimed, unoccupied, deserted or waste lands, quarries, spontaneous produce or other accessory interests did, and villages of similar character in which they did not, exist.

Mines to be deemed to belong to Government.

29. Mines of metal or coal and gold-washings shall in every case be deemed to be the property of Government. But if Government works or causes to be worked any such mine, compensation for damage to the surface of the soil shall be made to the owner of such surface.

Such compensation may be claimed, and shall be ascertained and awarded, in accordance with the provisions of Act X of 1870.

CHAPTER III.

ENGAGEMENTS FOR PAYMENT OF LAND-REVENUE.

With whom settlement is to be made.

30. When the land in respect of which the settlement is to be made is owned by one person, the settlement shall be offered to that person.

When such land is owned by several persons, it shall be offered to such persons through their representatives.

When there are two classes of owners, superior and inferior, the settlement may be offered to either class, according as the Financial Commissioner directs.

If one of such classes refuses the offer of the settlement, it shall be offered to the other class.

Settlement Officer to report amount of assessment and how computed.

31. When the officer in charge of the settlement has satisfied himself as to the amount at which an estate should be assessed, he shall submit a report of such amount and of the grounds on which it is computed to the Commissioner; and the Commissioner shall

shall forward such report, together with his own opinion thereon, to the Financial Commissioner.

32. The Financial Commissioner shall give such instructions as he thinks fit to the officer in charge of the settlement as to the terms on which the persons with whom the settlement is to be made shall be permitted to offer to engage for the revenue, and such officer shall inform such persons that they may make an offer on such terms, but that Government is not bound to accept such offer.

Financial Commissioner to give instructions as to terms.

33. If the persons with whom the settlement is to be made agree to make such offer, they shall become liable, from the date of such agreement, to the payment of the amount of revenue mentioned in the said offer; but the Local Government may refuse to accept such offer, and may require any officer whom it may appoint for that purpose to offer the land to such persons at any other rate of revenue, or for any other term, or generally on any other conditions than those offered.

Effect of agreement to offer.

Offer may be refused.

34. Until such refusal and offer of new terms on the part of the Government are notified to the persons with whom the settlement is to be made, they shall be bound by, and shall continue to hold their lands on the terms of, the offer permitted by the Financial Commissioner to be made.

Offer to be binding until refusal is notified.

35. All the owners of land in an estate shall be jointly and severally liable for the payment of the whole amount of revenue assessed upon it, and to all the processes hereinafter prescribed for the collection of arrears of revenue.

Liability of landowners in an estate.

36. If all the Village-Headmen in a village community agree to make such offer, such village community shall be bound by such agreement.

If Headmen accept, village community is bound.

37. If the persons with whom the settlement is to be made neglect or refuse to make such offer as is mentioned in section thirty-two, or to accept any offer made to them under section thirty-three, the officer in charge of the settlement may exclude such persons from their estate, and may make a settlement of such estate with any other persons, or may take the estate

Effect of refusal to offer.

under

under direct management. The period of such exclusion shall, in no case, exceed the term of the settlement.

Allowance to persons excluded.

Any persons who are so excluded shall be entitled to an allowance from Government, the amount of which shall be fixed by the Financial Commissioner, but which shall not be less than five per cent., nor more than ten per cent., on the nett amount realized by Government from the land from which such persons are excluded.

Land to be held on terms of expired settlement until new one is made.

38. If the term for which any settlement has been made expires before a new settlement is made, all persons who continue to occupy the land after the expiration of such term shall hold it upon the conditions of the expired settlement until a new one is made.

CHAPTER IV.

MAINTENANCE OF THE RECORD OF RIGHTS.

Recording of facts affecting record of rights.

39. When a record of rights has been handed to the Deputy Commissioner under the provisions of section seventeen, he shall from time to time record, or cause to be recorded, all facts affecting any matter stated in the record of rights which occur subsequent to the handing to him of the record of rights.

Rules for such recording.

40. The Local Government shall make rules as to the facts to be so recorded and the manner in which, the persons by whom, and the occasions on which, such facts are to be recorded, and as to the fees which are to be paid in respect of recording them.

Rules for settlement of lands of which revenue is resumed, &c.

41. The Local Government shall from time to time make rules as to the procedure to be followed in making or modifying settlements of lands of which the revenue has been assigned and is resumed by Government, lands affected by alluvion, diluvion or other river action, waste lands settled under the provisions of section twenty-seven, and other isolated portions of land.

Such rules may provide for any matters which may be provided for in a notification of settlement under section eleven, and the officers empowered by such rules

rules to act as Settlement Officers shall have all the powers hereinbefore given to Settlement Officers.

CHAPTER V.

COLLECTION OF LAND-REVENUE.

42. The Local Government may from time to time make rules as to the instalments by which, and the places and times at which, the revenue payable in respect of any land shall be paid, and for the mode in which notice as to such instalments, places and times shall be given to the persons concerned: and, until the Local Government shall otherwise direct, the practice as to these matters now observed shall continue to be observed.

Local Government may make rules as to payment of revenue.

It is the duty of every person who has engaged to pay any portion of land-revenue to pay the same at the place, and before sunset of the day, appointed by the Local Government in that behalf.

Revenue to be paid at place and on day appointed.

Any sum not so paid becomes thereupon an arrear of land-revenue, and the person who owes such arrear becomes a defaulter.

Effect of non-payment.

43. When an arrear of land-revenue has become due, the Deputy Commissioner may issue a warrant ordering the defaulter to pay the amount within a time therein stated, and empowering an officer to be named in the warrant, in default of the arrear being so paid, to bring the defaulter to the tahsil at a date to be named in the warrant.

Procedure for recovery of arrears.
Warrant.

If the arrear be not paid, and if, on the day named in the warrant, the defaulter does not show satisfactory cause for extending the time for payment of the arrear, the Deputy Commissioner may direct such person to be conveyed to his head quarters and there kept under personal restraint for ten days.

Detention at head quarters of Deputy Commissioner.

The Deputy Commissioner may empower any Tahsildár of his district to exercise the powers conferred by the two preceding clauses of this section.

If the arrear be not paid within ten days, and no good reason for the delay is shown, the Deputy Commissioner may issue an order to the jailor of the

Imprisonment in civil jail;

civil

civil jail of the district, directing him to confine the defaulter therein as a civil prisoner until the arrear is paid, or until the expiration of such period, not exceeding one year from the date of the order, as the Deputy Commissioner thinks fit; and such person shall be confined according to the terms of such order;

Distrain and sale of moveables.

and he may order the distrain and sale of the moveable property of any such person, with the exception of instruments of husbandry, cattle actually employed in agriculture, and the tools of artisans;

or he may order either of the above processes to be enforced.

Conduct of sale.

Every sale ordered under this section shall be conducted according to the law in force for the time being for the sale of moveable property under the decree of a Civil Court.

When defaulter may be discharged.

Wherever any of the processes provided in sections forty-six, forty-seven, forty-nine or fifty-two has been enforced in respect of an arrear, the defaulter on account of whose arrear such process has been enforced shall, if he has been imprisoned under this section, be forthwith discharged.

When Civil Court may interfere.

44. No proceeding had, or process enforced, under section forty-three, shall be liable to be contested in any Civil Court, unless the person aggrieved thereby denies that the amount of revenue claimed was due, and tenders security for any arrear in respect of which the process was issued, or which is due or is likely to become due before the termination of the suit, and for any costs arising out of the proceedings in the Civil Court, in which case the Court shall issue a precept to the Deputy Commissioner to discharge the prisoner from custody; but the Court shall in no case interfere with any such distress and sale of moveable property as aforesaid.

Party proceeded against may pay under protest and sue for recovery.

45. If any such process as is mentioned in section forty-three is taken against any person, such person may pay the amount claimed under protest, and, upon such payment, such process shall be withdrawn, and the party against whom it was issued may sue the Government

Government in any Civil Court for the amount so paid.

46. When an arrear of land-revenue has become due, the Deputy Commissioner may, in addition to or instead of the processes hereinbefore specified, cause the land in respect of which the arrear has become due to be attached and taken under the direct management of any agent whom he appoints for that purpose. The agent so appointed shall stand for all purposes in the position of the person on account of whose default the land was attached, and shall be bound by all the engagements or other relations which existed between such person and any subordinate proprietors or tenants with rights of occupancy, and shall be entitled to manage the land attached, and to receive all rents and profits accruing on such land, to the exclusion of the person on account of whose default the land was attached, until the arrears of land-revenue due therefrom have been satisfied, or until the Deputy Commissioner directs him to restore the person whose interest has been attached to the management thereof.

Land may be attached and taken under direct management.

Powers and obligations of agent.

All surplus profits of the land attached, beyond the cost of such attachment and direct management, shall go to defraying the arrear and any instalment of land-revenue that may become due during such management.

Application of surplus profits.

And no such management shall continue after the arrear of revenue on account of which it was ordered, together with any such instalment, has been satisfied.

Termination of management.

47. If an arrear of land-revenue has accrued in respect of the share of any member of a village community, such community or any member thereof may tender payment of such arrear, or may offer to pay such arrear by instalments; and, if such tender be made, or if the Deputy Commissioner considers such offer satisfactory, the Deputy Commissioner may transfer the share of the defaulting member to such community or member, on such terms as he considers equitable, either permanently or until such arrear is paid. If more such members than one make such tender or offer, the one who is most nearly related to

Transfer of share of defaulter to solvent co-sharers.

the

the defaulter, or who, in case of sale, would have a right of pre-emption, shall be preferred.

When transfer of share is to become absolute.

48. If such share is so transferred until the arrear is repaid, and if the arrear is not repaid within twelve years, the community or member to whom the share has been so transferred may apply to the Deputy Commissioner to publish a notification that, if the arrear is not paid within one year from the date thereof, such transfer will become absolute; and the Deputy Commissioner may publish such notification accordingly; and if the arrear is not paid before the expiration of one year from the date of the notification, the transfer to such community or member shall become absolute accordingly.

Sections 47 and 48 to apply to mortgagees and other incumbrancers.

49. The provisions contained in the two preceding sections in favour of members of a village community shall extend to mortgagees and other persons having incumbrances on the land on which the arrear is due, in case neither the community nor any member thereof take action under the said provisions.

Processes not to affect joint and several liability of community.

50. The procedure prescribed in the three preceding sections shall not affect the joint and several liability of the members of the village community in which it is enforced.

Notice to cancel settlement.

51. When any arrear of land-revenue remains unpaid for more than one month, the Deputy Commissioner, in addition to or instead of any of the processes hereinbefore provided, may, with the previous consent of the Financial Commissioner, cause to be published upon the land in respect of which such arrear is due a notification that, unless the arrear is paid within fifteen days from the date thereof, the settlement made in respect of the estate on which such arrear is due, or in respect of any portion of such estate, and all contracts made by the defaulter or any person through whom he claims, affecting such estate or portion of an estate, will be cancelled.

Service of notice.

A copy of such notification shall be stuck up at the tahsil, and be served on each of the Village Headmen of the village in which the arrear has accrued.

On cancellation of settlement land may be man-

52. If such arrear of land-revenue is not paid within fifteen days from the date of the notification, the

the said settlement and all contracts made by the defaulter or any person through whom he claims, affecting the land in such estate or portion of an estate, shall be cancelled; and the Deputy Commissioner, with the previous consent of the Financial Commissioner, may either appoint an agent to manage the land, or may let the land in farm to any person who may be willing to accept the same, for such period and on such conditions as he thinks fit; and such farmer may, during such period, either occupy the land himself or sub-let the same to such persons on such terms as he may think proper :

aged by
agent or let
in farm.

Provided that, in every case in which the provisions of this section are enforced, no lease of any of the lands mentioned in the notification shall be made to any other person till it has been first offered to the owners of such land: and such owners shall, if they accept the offer of the lease, be deemed, in the absence of express agreement to the contrary, to hold as tenants-at-will.

Lease to be
first offered
to owners of
land.

A cancelment under this section shall not affect any person, other than the defaulter or his representatives, having an interest in such estate which existed at the date of the last previous settlement.

53. Whenever any person is dispossessed of any beneficial interest in land by any such attachment, direct management, transfer or cancelment as is provided in this chapter, he shall be entitled to an allowance in respect thereof such as is provided in section thirty-seven.

Persons
dispossessed
to have
allowance.

54. If the share of any member of a village community is let to farm, under the provisions hereinbefore contained, to any person other than a member of the village community, such person shall not, during the term of his farm, be liable for the land-revenue due in respect of the other shares in the village community; and if such person is a member of the village community, he may, if the Financial Commissioner so direct, be freed from joint and several liability in respect of such share.

Farmer of
share in vil-
lage commu-
nity when
not liable for
revenue of
other shares.

55. When an arrear of revenue cannot be recovered by any of the processes hereinbefore described, the

Attachment
of interest of
defaulter in
other land.

Deputy

Deputy Commissioner may, with the previous sanction of the Financial Commissioner, order the attachment, under section forty-six, of any beneficial interest to which the defaulter is entitled in any other land, and may apply the provisions of that section to such land until the arrear is satisfied.

What may
be sold.

56. If the Deputy Commissioner is of opinion that an arrear of land-revenue cannot be recovered by any of the means hereinbefore mentioned, he may, with the previous sanction of the Financial Commissioner, sell by auction—

any land in respect of which such arrear has accrued, or any portion or share of such land ; or

any land or houses, or interest in land or houses, other than that in respect of which such arrear has accrued, to which the defaulter is entitled :

When house
or land may
not be sold.

but no land or house shall be liable to be sold under this section,

if the land is subject to the Court of Wards, or is so circumstanced that the Court of Wards might exercise jurisdiction over it ; or

if the land is under attachment under this Act, and the arrear has accrued during such attachment ; or

if the land is held in farm under this Act by a person who is not a member of the village community within whose estate such land is situated, and if the arrear has accrued during the term for which it is so held in farm.

Land to be
sold free of in-
cumbrances.

57. Land or other property sold under the last preceding section shall be sold free of all incumbrances, and all contracts made by any person in respect of such land or property shall become void as against the purchaser at the auction-sale.

Procedure to
be followed
in sales.

58. In all sales under section fifty-six, the procedure provided by sections two hundred and forty-nine, two hundred and fifty-three to two hundred and sixty, inclusive, of the Code of Civil Procedure, shall be followed, except in the following particulars :

(1) The defaulter may pay the arrear in respect of which the land is to be sold at any time before the day

day fixed for the sale, and upon such payment the sale shall be stayed :

(2) The proclamation of intended sale provided in the said section two hundred and forty-nine shall declare that the land is to be sold free of every incumbrance, except the land-revenue and other legal charges to which it may be from time to time assessed :

(3) The appeal provided in section two hundred and fifty-seven of the said Code shall lie to the Commissioner of the division, and an appeal from the Commissioner's order shall lie to the Financial Commissioner :

(4) The certificate provided in section two hundred and fifty-nine of the said Code shall state that the purchaser has purchased the land to which the certificate refers free of every incumbrance, except the land-revenue and other legal charges to which it may be from time to time assessed.

59. A suit may be brought in a Civil Court to set aside any such sale on any ground on which a sale under the Code of Civil Procedure might be set aside ; but not on any of the following grounds :

Suit to set aside sale.

(1) that a tender of the arrear of land-revenue on account of which such sale took place was made on or after the day named for the sale in the proclamation of intended sale ;

(2) that the defaulter had any claim against the Government ;

(3) that the revenue due from the defaulter had been remitted, unless the Local Government admits it ;

(4) that money belonging to the defaulter, and sufficient to satisfy the whole or any part of the arrear, was in any Government treasury, unless the defaulter had an exclusive and undisputed property therein, and unless, after the application by the defaulter within the time specified in the notification of intended sale that such money should be applied to the satisfaction of the arrear, the Deputy Commissioner neglected or refused upon insufficient grounds so to apply it ; or

where

where land is sold for an arrear of revenue due in respect thereof,

(5) that the land sold does not belong to the defaulter.

Application of proceeds of sale.

60. The proceeds of any sale under section fifty-six shall be applied as follows :

(1) to the payment of the arrear due ;

(2) to the payment of any other arrear of land-revenue due by the same person ;

(3) the surplus shall be paid to the person whose land has been sold ; or, if the land sold were held in shares, then to the co-sharers collectively, or according to the amount of their respective interests, at the discretion of the Deputy Commissioner.

Rules as to payment of surplus to creditors.

61. Such surplus shall not be payable to any creditor of the person whose land has been sold on demand of such creditor, nor shall it be retained in the land-revenue treasury, except under precept of a Civil Court and in satisfaction of a decree of such Court ; and, whenever such surplus has been paid to the creditors of the owner of any land under a precept of such Court, and the sale of such land is afterwards annulled, such owner shall not be restored to possession, until the amount so paid is returned by him with such interest as the Deputy Commissioner directs.

Purchaser's liability.

62. The person named in the certificate of title as purchaser shall be liable for all instalments of land-revenue which may fall due subsequently to the date of the certificate.

Application of Act to existing arrears.

63. The provisions of this chapter shall apply to all arrears of land-revenue due at the passing of this Act.

CHAPTER VI.

MISCELLANEOUS.

Powers for recovery of revenue other than land-revenue.

64. Deputy Commissioners may exercise all or any of the powers hereinbefore provided for the recovery of land-revenue, for the recovery of any other revenue due from any person to the Government.

65. No

65. No Civil Court shall take cognizance of any of the following matters :—

Limitation of jurisdiction of Civil Courts.

(1) claims against Government brought by any person in respect of any matter connected with the offices mentioned in section six ;

(2) claims against one another, as to partition, by persons who do not contest the correctness of the entries in the record of rights ;

(3) the formation of the record of rights, the preparation, signing and attestation of the documents contained therein, or the notification of an intended settlement ;

(4) any matter for which provision is made in section twenty-seven ;

(5) the right of any person or persons to be settled with, or the validity of any engagement with Government for the payment of land-revenue ;

(6) claims arising out of, or connected with, the collection of land-revenue, or any process enforced on account of neglect or refusal to engage, or on account of an arrear of land-revenue, except where it is otherwise expressly provided in this Act.

In all the above cases an appeal shall lie to the Deputy Commissioner from all orders and decisions of any officer subordinate to him ; and to the Commissioner from all orders and decisions original or appellate, of the Deputy Commissioner ; and to the Financial Commissioner from all orders and decisions of the Commissioner.

Appeal.

The Financial Commissioner shall have power to call for the record of any proceeding had under this section by any Revenue or Settlement Officer, and to pass such order thereon as he thinks fit.

Power to call for record of proceedings.

Such proceedings shall be conducted according to the rules prescribed by the Local Government.

Conduct of proceedings.

Such fees shall be chargeable in respect of proceedings under this section, whether original or appellate as the Local Government from time to time, with the sanction of the Governor General in Council, directs.

Fees.

66. The

a 33

Power to
make rules
for purposes
of Act.

66. The Local Government may, with the previous sanction of the Governor General in Council, make and issue, and may, with the like sanction, from time to time alter, rules in accordance with the provisions of this Act to regulate and specify—

(1) the proceedings of any officer or other person who, under any provision of this Act, is required or empowered to take action in any matter;

(2) the cases in which, the officers to whom, and the conditions subject to which, orders and decisions given under this Act, and not expressly provided for as regards appeal, shall be appealable;

(3) the persons by whom, the time, place and manner at or in which, anything for the doing of which provision is made in this Act shall be done;

(4) the amount of any fine to be imposed or charge to be made under the provisions of this Act;

(5) the form and contents of reports to be furnished by settlement officers, and the period within which such reports shall be so furnished;

(6) and generally to carry out the provisions of this Act.

Such rules shall be published in the official Gazette and shall have the force of law.

Periodical
re-publication
of rules.

67. All rules having the force of law made under this Act shall, with the previous sanction of the Government of India, be re-published once at least every year, and, upon such re-publication, shall be arranged in the order of their subject-matter; and all such alterations or amendments as may have been made in the course of the preceding year, or may have become necessary or advisable, shall be embodied therewith; and upon such re-publication all previous rules shall be repealed.

Operation of
existing
rules.

All rules heretofore prescribed by competent authority, in respect of any of the matters for which rules may be made under this Act, shall be deemed to be in force for six months after this Act comes into force, unless any rules on the same subject are previously issued by the Local Government.