

Bengal Decennial Settlement Regulation, 1793

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Act 8 of 1793

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Bengal Decennial Settlement Regulation, 1793 Regulation 8 of 1793 [Dated 1st May, 1973] Omitted by Act 16 of 1874. 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 Zammdars, 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. to 3.

[x x x] [Repealed by Act 16 of 1874.]

4. Settlement with whom to be concluded.

- The settlement, under certain restrictions and excetions hereafter specified, shall be concluded with the actual proprietors of the soil, of whatever denomination, whether Zamindars, Talukdars or chaudharis.

5. to 12.

[x x x] [Sections 5 and 12 omitted by Act 16 of 1874.]

13. Payment of revenue by talukhars ordered to be separate.

- 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 estate as heretofore.

14. Separated talukdars where to pay revenue.

- Talukdars who, in consequence of the rules in [Section 5 and 9] [Repealed by Act 16 of 1874.] 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 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other cause, this mode would be attended with considerable inconvenience, in which case tahsildars, or [x x] ['Native' repealed by Adaptation of Laws Order.] Collectors, are to be appointed to receive the revenue of the taluks in such districts.

15. Tahsildars.

- Zamindars or other actual proprietors of land, from whose Zamindars 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. to 18.

[x x x] [Repealed by Act 12 of 1876.]

19. Istimrardars to be considered as patta talukdars.

- Istimrardars, however, who have not got possession of their lands to the exclusion, or without the consent, of the actual proprietors, [***] [Repealed by Act 1 of 1903.] 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.

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

- The exceptions to the general order for the conclusion of the decennial settlement with the actual proprietors of the soil, contained in Section 4, include the following descriptions of person; females (excepting those whom the [State] [Substituted by Adaptation of Laws Order.] 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: [x x x] [Repealed by Bengal Regulation No. 7 of 1790.] provided, however, with regard to the whole of these description, 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.

21. Management of disqualified proprietors.

- The lands of disqualified proprietors, coming within the above descriptions, are to be managed for the benefit of the proprietors by person appointed to the Trust by the [State] [Substituted by Adaptation of Law Order.] Government [x x x] [Repealed by Act 26 of 1874.].

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

- A further exception has been made to proprietors in balance to Government, and unable to pay the arrears due from them; in which instance 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 Collector.

23. to 25.

[x x x] [Sections 23 to 25 repealed by 17 of 1805.]

26. Determination of agreement to jama, of undivided estates.

- The determination of the Majority of the proprietors present, under the restrictions specified in [Section 23] [Sections 23 to 25 repealed by 17 of 1805.] 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.

27. Settlement of land standing in joint names of several proprietors or of one for many.

- 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. and 29.

[x x x] [Sections 28 to 29 repealed by Act 12 of 1876.]

30. Settlement of disputed estates.

- 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 transferable to any other person to whom the property may be adjudged.

31. If no claimant has been previously in possession.

- If a case should occur in which none of the claimants shall have been previously in possession, they are to be allowed to appoint a Manager until claims shall have been determined in the adalat of the zila: 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.

32. Settlement in cases of disputes as to boundaries.

- Where disputes exist concerning the boundaries of land, they are to be left to be adjusted in the diwani adalat, and the settlement is to be made in the meantime for the lands in possession of the disputing parties respectively.

33.

[x x x] [Omitted by Act 1 of 1903.]

34. Allowances of kazis and kanungos and public pensions, to be added to the jama.

- The allowances of the kazis and kanungos heretofore paid by the land-holders, as well as any public pensions hitherto paid through the land-holders, are to be added to the amount of the jama, on the part of 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.] [Bengal Regulation 24 of 1973 omitted by Act No. 23 of 1871.]

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

- 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 ganges, hats and bazars situated within the limits of the town of Calcutta excepted and excepting also the collections confirmed to the proprietors and holders of ganges, bazars and hats by the Resolution passed by the Governor-General in Council on the 11th of June, 1790,[x x x] [Omitted by Act 16 of 1874.]

36. Also exclusive of lakhiraj lands.

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

37. But not of malikana lands in Bihar, or other lands in Bengal and Midnapore.

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

38. Malikana lands in Bihar to be re-annexed.

- Where the zamindars or other actual proprietors of land, in Bihar have resigned, or have been deprived of the management of their lands, retaining possession of a title as Malikana, the latter is to be re-annexed, and the zamindar or other actual proprietors are to be required to engage for the whole of their estates including the Malikana lands; unless such lands be held as Malikana under grants made, or confirmed by the [Central] [Substituted by the Adaptation of Law Order.] Government, or the supreme authority of the country for the time being, and have been sold, or mortgaged, and given in possession to the mortgagee, in which case they are to be exempted from this rule. Grants for malikana lands not made or confirmed by the supreme authority of the country, are declared invalid by the Regulation passed on the 8th August, 1788. If the Collectors, however, should be of opinion that any material injury will be done to any individual by the execution of these orders, they are to report the circumstances to the Board of Revenue.

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

- The zankar, khamar, nij-jot, and other private lands appropriated by the zamindars, independent talukdar and other actual proprietors of land in Bengal and Orissa, 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 that they held them under a similar tenure previous to the 12th August, 1765, the date of the grant of the Diwans to the Company, and have hitherto been permitted to keep possession of them, whenever their zamindaris or estate have been held khas or let in farm, but not otherwise [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 net produce of such lands, is to be made from the amount of the allowance fixed for excluded proprietors by Section 44.] [This section is omitted by Act 16 of 1874.]

40. Consolidation of malguzari and private lands also in certain taluks.

- 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.

41. Chakaran annexed to malguzari lands.

- 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] [Substituted by the Adaptation of Law Order.] 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 common with all other malguzari lands therein.

42.

[x x x] [Omitted by Act 16 of 1874.]

43. Procedure in case of land holders declining to engage for jama proposed to them.

- In the event of any proprietor declining to engage for the settlement of his lands at the jama proposed to him the Collector is to communicate the objections offered, with his opinion respecting them to the Board of Revenue. That Board is to determine that 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 may in each instance think most expedient.

44. to 47.

[x x x] [Sections 44 to 47 omitted by Act 16 of 1874.]

48.

[x x x] [Section 48 omitted by Act 12 of 1876.]

49. Certain istimrardars not liable to increase of rent.

- It is to be understood, however, that istimrardars (mukarraridars) of the nature of those described in [Section 18] [Section 18 Repealed by Act 12 of 1876, but this reference is saved by the proviso to that Act.] 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. With regard to such instimraridar 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. Exception to above.

- 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 zamindar being held khas or let in farm assessing such istimrardars according to the general rate of the district.

51. Rules to prevent undue exactions from talukdars.

- The following rules are prescribed to prevent undue exaction from the dependent talukdars:-First. - No zamindar or other actual proprietor of land shall demand an increase from the talukdars dependent on him, although he should himself be subject to the payment of an increase of jama to Government; except upon proof that he is entitled so to do either by the special custom of the district, or by the conditions under which talukdar holds his tenure; or that the talukdar, by receiving abatements from his jama, has subjected himself to the payment of the increase demanded, and that the lands are capable of affording it. Second. - If, in any instance, it be proved that a zamindar or other actual proprietor of land exacts more from a talukdar than he has a right to, the Court shall adjudge him to pay a penalty of double the amount of such exaction, with all costs of suit, to the party injured.

52. Power of actual proprietors to left remaining lands as they think proper.

- The zamindar or other actual proprietor of land is to let the remaining lands of his zamindari or estate, under the prescribed restrictions, in whatever manner he may think proper but every engagement contracted with under-farmers shall be specific as to the amount and conditions of it; and all sum received by any actual proprietor of land or any farmer of land, of whatever description, over and above what is specified in the engagements of the persons paying the same, shall be considered as extorted, and be repaid with a penalty of double the amount. The restrictions prescribed and referred to in this section are the following:

53. Land so let not to be taken charge of without amilnama.

- No person contracting with a zamindar, independent talukdar or other actual proprietor or employed by him in the management of the collections shall be authorized to take charge of the lands or collections without an amilnama, or written commission, signed by such zamindar, independent talukdar or other actual proprietor.

54. Process to prevent imposition on raiyats under denomination of abwab, mathat etc.

- The imposition upon the raiyats, under the denomination of abwab, mathat and other appellations, from their number and uncertainty having become intricate to adjust, and a source of oppression to the raiyats, all proprietors of land and dependent talukdars shall revise the same, in concert with the raiyats. and consolidate the whole with the assal into one specific sum. In large zamindaris, or estates the proprietors are to commence this simplification of the rents of their raiyats in the parganas where the impositions are most, numerous, and to proceed in it gradually till completed; but so that it be effected for the whole of their lands by the end of the Bengal Year 1198 in the Bengal district and of the fasti and Wilayti year 1198 in the Bihar and Orissa districts, these being the periods fixed for the delivery of pattas, as hereafter specified.

55. Proprietors and farmers of land prohibited imposing new abwab or mathat on raiyats.

- No actual proprietor of land and dependent talukdar or farmer of land, of whatever description, shall impose any new abwab or mathat upon the raiyats under any pretence whatever. Every exaction of this nature shall be punished by a penalty equal to three times the amount imposed; if any, at any future periods it be discovered that any new abwad or mathat have been imposed, the person imposing the same shall be liable to this penalty for the entire period of such impositions.

56. and 57.

[x x x] [Omitted by Act 12 of 1876.]

58.

[x x x] [Omitted by Act 5 of 1812.]

59. and 60.

[x x x] [Omitted by Act 5 of 1812.]

61.

[x x x] [Omitted by Act 16 of 1874.]

62.

[x x x] [Omitted by Act 1 of 1819.]

63.

[x x x] [Omitted by Act 16 of 1874.]

64. Adjustment of mufassal kistbandis.

- The proprietors of land, dependent talukdar and farmers of land of every description, are to adjust the instalments of the rents receivable by them from their under renters and raiyats, according to the time of reaping and selling the produce, and they shall be liable to be sued for damages for not conforming to this rule.

65. Bar to engagements contrary to Regulation.

- No proprietor of land or dependent talukdar shall contract any engagement with any under farmer or authorize any act, contrary to the letter and meaning of this Regulation.

66. Land-holders, etc., not to interfere in matters coming within cognizance of Court or Magistrates.

- 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 land-holders and farmers of lands, 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, [x x x] ['or the Courts of Circuit' repealed by Act 1 of 1903.] 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.

67. Collector to attend to spirit of Regulation, where not applicable to particular districts.

-[x x x] [Clauses first to fourth and sixth of Section 67 repealed by Act 12 of 1876.]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 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 informing any settlements which remain to be concluded, but it is not to be construed to empower the Collector to exercise any judicial authority.[x x x] [Clauses first to fourth and sixth of Section 67 repealed by Act 12 of 1876.]

68. to 101.

[x x x] [Section 68 to 101 repealed by Act 16 of 1874.]