

The Bengal Inheritance Regulation, 1793

BIHAR

India

The Bengal Inheritance Regulation, 1793

Act 11 of 1793

- Published on 1 May 1793
- Commenced on 1 May 1793
- [This is the version of this document from 1 May 1793.]
- [Note: The original publication document is not available and this content could not be verified.]

The Bengal Inheritance Regulation, 1793(Bengal Regulation 11 of 1793)[Dated 1st May, 1793]A Regulation for removing certain restrictions to the operation of the Hindu and Muhammadan laws with regard to the inheritance of landed property subject to the payment of Revenue to Government.

1. Preamble.

- A custom, originating in considerations of financial convenience, was established in these Provinces under the Native Administrations, according to which some of the most extensive zamindaris are not liable to division. Upon the death of the proprietor of one of these estates it devolves entirely to the eldest son, or next heir of the deceased, to exclusion of all other sons or relations. This custom is repugnant both to the Hindu and Muhammadan laws, which annexed to primogeniture no exclusive right of succession to landed property, and consequently subversive of the rights of those individuals who would be entitled to a share of the estates in question were the established laws of inheritance allowed to operate with regard to them as well as all other estates. It likewise tends to prevent the general improvement of the country, from the proprietors of these large estates not having the means, or being unable to bestow the attention, requisite for bringing into cultivation the extensive tracts of waste land comprised in them. For the above reasons, and as the limitation of the public demand upon the estates of individuals as they now exist, and the Rules prescribed for apportioning the amount of it on the several shares of any estates which may be divided, obviate the objections and inconveniences that might have arisen from such divisions when the public demand was liable to annual or frequent variation, the Governor-General in Council has enacted the following Rules:

2. Descent of landed property after 1st July, 1794.

- [* * *] [Words and figures as to dates repealed by Act 16 of 1874.] If any zamindar, independent talukdar or other actual proprietor of land, shall die without a will, or without having declared by a writing, or verbally, to whom and in what manner his or her landed property is to devolve after his

or her demise, and shall leave two or more heirs, who by the Muhammadan or Hindu law, (according as the parties may be of the former or latter persuasion) may be respectively entitled to succeed to a portion of the landed property of the deceased, such persons shall succeed to the shares to which they may be entitled.

3. Estate how held on death of actual proprietor.

- If any zamindar, independent talukdar or other actual proprietor of land, shall die [* * *] ['Subsequent to the period specified in Section 2,' repealed by Act 16 of 1874.] without a will, or without having declared by a writing, or verbally, to whom and in what manner his or her landed property is to devolve after his or her demise, and shall leave two or more heirs, who by the Muhammadan or Hindu law (according as the parties may be of the former or latter persuasion) shall be respectively entitled to succeed to a portion of the landed property of the deceased, under the Rule contained in [Section 2] [Substituted by Act 12 of 1891, Schedule II for 'that section'.] such persons shall be at liberty, if they shall prefer so doing, to hold the property as a joint undivided estate. If one or more, or all of the sharers shall be desirous of having separate possession of their respective shares, a division of the estate shall be made in the manner directed in [the Estates Partition Act, 1876] [Substituted by 'Regulation 25, 1793,' by Act 12 of 1891, Schedule II. Bengal Act 8 of 1876 has been repealed and re-enacted by the Estates Partition Act, 1897 (Bengal Act 5 of 1897), and this reference should now be construed as a reference to the latter Act-see Section 2(2) thereof.], and such sharer or sharers shall have the separate possession of such share or shares accordingly. If there shall be three or more sharers, and any two or more of them shall be desirous of holding their shares as a joint undivided estate, they shall be permitted to keep their shares united accordingly.

4. Shares held separate how assessed.

- [* * *] [The reference to Regulation 8 of 1793, in Section 4, repealed by Act 16 of 1874.] If any one or more of such sharers shall apply to have the separate possession of his or their share or shares, the proportion of the public jama charged upon the whole estate which is to be assessed upon such share or shares is to be adjusted according to the Rules prescribed in Section 10, Regulation 1, 1793. If the estate is held khas or let in farm, the provisions contained in Section 11, Regulation 1, 1793, regarding estates so circumstanced which may be divided, will be applicable to it.

5. Saving of bequests and transfers.

- Nothing contained in this Regulation is to be construed to [* * *] [Portions of Sections 5 and 6 which were repealed by Act 16 of 1874, with the effect of running the two Sections into one, have been omitted.] prohibit any actual proprietor of land bequeathing or transferring by will, or by a declaration in writing, or verbally, either prior or subsequent to the 1st July, 1794, his or her landed estate entire to his or her eldest son or next heir, or other son or heir, in exclusion of all other sons or heirs, or to any person or persons, or to two or more of his or her heirs in exclusion of all other persons or heirs, in the proportions, and to be held in the manner, which such proprietor may think proper: Provided that the bequest or transfer be not repugnant to any [laws for the time being in

force] [Substituted by A.O. for 'Regulations that have been or may be passed by the Governor-General in Council'.], nor contrary to the Hindu or Muhammadan law; and that the bequest or transfer, whether made by a will or other writing, or verbally, be authenticated by, or made before, such witnesses, and in such manner, as those Laws [* * *] ['and Regulations' repealed by by A.O.] respectively do or may require.