

# The Bengal Land-Revenue Sales Act, 1868

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### Act 7 of 1868

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The Bengal Land-Revenue Sales Act, 1868(Bengal Act 7 of 1868)[Dated 26th August, 1868]An Act to make further provision for the recovery of arrears of land-revenue and public demands recoverable as arrears of land revenue.Preamble. - Whereas it is expedient to amend and extend the law for the recovery of arrears of land-revenue and of public demands recoverable as arrears of land-revenue: It is declared and enacted as follows:-

### 1. Interpretation.

- In this Act, and in Act 11 of 1859 (to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency), the words in this section mentioned shall have the meanings therein attributed to them respectively-the word "proprietor" includes any tenant by whom any estate or tenure is held directly under [the Government:] [Substituted by ALO for the words 'the Crown'.]the word "revenue" includes every sum annually payable to Government by the proprietor of any estate or tenure in respect thereof, and every sum payable to Government in respect of takavi, or of any money advance by Government to proprietors of land for making or repairing embankments reservoirs or watercourses, or other improvements on the land held by them:the word "estate" means any land or share in land subject to the payment to Government of an annual sum in respect of which the name of a proprietor is entered on the register known as the general register of all revenue-paying estates, or in respect of which a separate account may, in pursuance of Section 10 or Section 11 of the said Act 11 of 1859, have been opened:The word "tenure" includes all interests in land, whether rent-paying or lakhiraj (other than estates as above defined), and all fisheries, which by the terms of the grants creating the same or by the custom of the country, are transferable, whether such tenures are resumable or not, and whether the right of selling or bringing them to sale for an arrear of rent may or may not have been specially reserved by stipulation in any instrument:the "jurisdiction" of a Collector means the district to which such Collector is appointed, or throughout which any officer vested with the powers of a Collector is authorized to exercise such powers:the word "Collector" includes any person vested with the powers of a Collector.[\* \* \* \*] [The remainder of Section 1, repealed by Bengal Act 7 of 1880.]

## **2. Appeals against sales.**

- It shall be lawful for the Commissioner of Revenue to receive an appeal against any sale made under this Act or the said Act 11 of 1859, [\* \* \*] [The words 'not being a sale made under and by virtue of, any execution issued upon a certificate made as hereinafter is provided', repealed by Bengal Act 7 of 1880.] so that such appeal be preferred to such Commissioner on or before the sixtieth day from the day of sale, reckoning as in Section 23 of the said Act 11 of 1859, or be presented to the Collector or other officer duly authorized to hold sales under the said Act for transmission to the Commissioner on or before the forty-fifth day from the day of sale, reckoning as aforesaid, and not otherwise; and the Commissioner shall be competent, in every case of appeal so preferred, to annul any sale of an estate or share of an estate made under this Act or Act 11 of 1859, which shall appear to him not to have been conducted according to the provisions of the said Acts, awarding at the same time to the purchaser a payment from the proprietor of compensation for his loss, if the sale shall have been occasioned by neglect of the proprietor, such compensation not to exceed the interest at the highest rate of the current Government securities on the amount of deposit or balance of purchase-money during the period of its being retained in the Collector's Office; and the order of the Commissioner shall in such cases be final.

## **3. Time for revenue sales extended.**

- [\* \* \* \*] The word "thirty" shall be substituted for the word "fifteen" in Section 6 of the said Act 11 of 1859 [The words 'From the date when this Act comes into operation', in Sections 3 and 4 repealed by Act 1 of 1903.] [\* \* \*] [The remainder of Section 3 (which repealed the words 'or more than thirty' in Section 6 of Act 11 of 1859) repealed by Act 1 of 1903.].

## **4. Time for conformance of sales extended.**

- [\* \* \* \*] [The words 'From the date when this Act comes into operation', in Sections 3 and 4 repealed by Act 1 of 1903.] The words "sixtieth" and "sixty" shall be substituted for the words "thirtieth" and "thirty" respectively, wherever the said words occur in Section 27 of the said Act 11 of 1859.

## **5. Mode of serving notices.**

- Every notice in and by this Act, or by the said Act 11 of 1859, directed to be served, shall be served by delivering to the person to whom it may be directed, a copy thereof attested by the Collector, or by delivering such copy at the usual place of abode of such person to some adult male member of his family, or, in case it cannot be so served, by posting such copy upon some conspicuous part of the usual or last-known place of abode of such person. In case such notice cannot be served in any of the ways hereinbefore mentioned, it shall be served in such way as the Collector issuing such notice may direct.

## **6. Power to cause notices to be served for arrears or demands.**

- It shall be lawful for the [State] [Substituted by ALO.] Government [\* \* \* \*] [The words 'of Bengal' repealed by para 3(1) of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.], by an order published in the [Official Gazette] [Substituted AO for 'Calcutta Gazette'.] to empower all Collectors in any district in such order mentioned, if they shall think fit to cause such notices as shall be in such order specified to be served upon any proprietor [\* \* \* \*] [The words 'or persons liable to any demands', repealed by Bengal Act 7 of 1880.] before proceeding under the provisions of the said Act 11 of 1859 or of this Act, to realize from such proprietors [\* \* \* \*] [The words 'or persons' repealed by Bengal Act 7 of 1880.] any arrears of revenue [\* \* \* \*] [The words 'or any demands', repealed by Bengal Act 7 of 1880.] which may be due from such proprietors [\* \* \* \*] [The words 'or persons' repealed by Bengal Act 7 of 1880.].and the costs of serving any such notices as shall be served under the powers conferred by any such order, not exceeding such sums as shall in such order be specified, shall be added to any arrears of revenue [the Word "or to any demands" repealed by Bengal Act 7 of 1880] which may be due from such proprietors [\* \* \* \*] [The words 'or persons' repealed by Bengal Act 7 of 1880.] add shall be recoverable as if the same were a portion of such arrears of revenue [\* \* \* \*] [The words 'or of such demands' repealed by Bengal Act 7 of 1880.].and every such order may from time to time be altered, varied or revoked by any other order of the said [State] [Substituted by ALO.] Government to be from time to time in like manner published.

## **7. Notices to raiyats to be posted in sub-divisional cutcherry.**

- In addition to the notices in and by Section 7 of the said Act 11 of 1859 directed to be posted, a similar notice shall be posted at the sub-divisional cutcherry within the jurisdiction of which the estate to which such notice refers, or some portion thereof, is situate.

## **8. Certificate to be conclusive evidence of regularity in service of notices.**

- Every certificate of title which may be given to any purchaser under the provisions of Section 28 of the said Act 11 of 1859 or of Section 11 of this Act, shall be conclusive evidence, in favour of such purchaser and of every person claiming under him that all notices in or by this Act, or by the said Act 11 of 1859 required to be served or posted, have been duly served and posted;and the title of any person who may have obtained any such certificate shall not be impeached or affected or by reason of any omission, informality or irregularity as regards the serving or posting of any notice in the proceedings under which the sale was had at which such person may have purchased.

## **9.**

[\* \* \* \*] [Repealed by Act 1 of 1903.]

## **10. Collectorate to include all estates borne on its roll.**

- Every estate shall, for the purposes of this Act and of the said Act 11 of 1859 be deemed to be within the collectorate of the Collector upon whose general register the revenue thereof may be borne, although the whole or any portion of the lands comprised in such estate may be without the local limits of his jurisdiction; but all lands and tenures shall be deemed to be within the jurisdiction within local limits of which they may be situate, although the estate of which they form part may, under the provisions of this Section, be deemed to be within the collectorate of any other Collector.

## **11. [ Power to sell tenures. [Substituted for the original Section 11 by Bengal Act 2 of 1871.]**

- Whenever any revenue payable to Government in respect of any tenure not being an estate shall be in arrear after the latest day of payment fixed in the manner prescribed in Section 3 of Act 11 of 1859 the Collector to whom such revenue is payable may cause the tenure to be sold in the manner and subject to the provisions in and by the said Act 11 of 1859 provided for the sale of estates for the recovery of the arrears of revenue;]and the Collector shall apply the purchase-money arising from such sale according to the provisions of Section 31 of the said Act 11 of 1859, except that the residue, if any, shall be held in deposit on account of the holder of the tenure and not on account of the proprietor of the estate;and every such Collector shall, upon every such sale of any tenure being final and conclusive give to the purchaser thereof such certificate of title thereof as is provided in Section 28 of the said Act 11 of 1859 with respect to estates:Provided that no tenure shall be sold for the recovery of arrears of revenue other than those of the current years of the year immediately preceding, nor for the recovery of arrears of revenue due by tenures under attachment by order of any judicial authority, unless and until after a notification in the language of the district, specifying the nature and amount of the arrear and the latest date on which payment thereof shall be received, shall have been fixed, for a period of not less than fifteen clear days preceding the date fixed for payment according to Section 3 of Act 11 of 1859.in the office of the Collector or other officer duly authorized to hold sales under this Act, in the Court of the Judge within whose jurisdiction the land advertised lies, and in the Munsif's court and police-thana of the division in which the tenure to which the notification relates is situated or, if the tenure be situated within the jurisdiction of more than one Munsif's court or police thana, in some one or more of such courts or thanas, and also at the cutcherry of the malguzar or owner of the tenure, or at some conspicuous place upon the tenure, the same to be certified by the peon or other person employed for the purpose.

## **12. Effect of sale of tenure.**

- The purchaser of any tenure sold under the provisions of Section 11 of this Act shall acquire it free from all encumbrances which may have been imposed upon it after its creation, or after the time of settlement, whichever may have last occurred, and shall be entitled to avoid and annul all under-tenures, and forthwith to eject ail under-tenants, with the following exceptions:-First. - Istimrari or mukarrari tenures which have been held at a fixed rent from the time of the permanent settlement;Secondly. - Tenures existing at the time of permanent settlement which have not been

held at a fixed rent: Provided always that the rent of such tenures shall be liable to enhancement under any law for the time being in force for the enhancement of the rent of such tenures. Thirdly. - Tenures created or recognized by the settlement proceedings of any current temporary settlement, as tenures bearing a rent-which is fixed for the period of such settlement. Fourthly. - Tenures of lands whereon dwelling-houses, manufactories or other permanent buildings have been erected, or whereon permanent gardens, plantations, tanks, canals places of worship or burning or burying-grounds have been made.

### **13. Power of enhancement.**

- Every purchaser of a tenure under Section 11 of this Act shall be entitled to proceed in the manner prescribed by any law for the time being in force for the enhancement of the rent of any land coming within the fourth class of exceptions above made, if he can prove the same to have been held at what was originally an unfair rent, unless the same shall have been held for a term exceeding twelve years at a fixed rent equal to the rent of good arable land.

### **14. Saving of right of raiyat.**

- Provided always that nothing hereinbefore contained shall be construed to entitle any such purchaser, under Section 11 of this Act, to eject any raiyat having a right of occupancy at a fixed rent, or at a rent, assessable accordingly to fixed rules under the laws in force, or to enhance the rent of any such raiyat otherwise than in the manner prescribed by such laws, or otherwise, than as the former proprietor, irrespective of all engagements made since the time of settlement, may have been entitled to do.

### **15. to 28.**

[\* \* \*] [Repealed by Bengal Act 7 of 1880.]

### **29.**

[\* \* \*] [Repealed by Act 12 of 1873.]

### **30. Construction.**

- This Act shall be read with, and taken as part of, the said Act 11 of 1859 as modified by Act 3 of 1862 of the Lieutenant-Governor of Bengal-in Council.

### **A, B, C and D**

[\* \* \*] [Repealed by Act 1 of 1903.]

## **E**

[\* \* \* \* \*] [Repealed by Act 12 of 1873.]