

THE ASSAM LAND AND REVENUE REGULATION, 1886

REGULATION 1 OF 1886

[As amended]

CHAPTER – I

PRELIMINARY

Short title commencement and local extension

1. (1) This Regulation may be called the Assam Land and Revenue Regulation, 1886; and

(2) It shall come into force on such dates and in such territories under the administration of the [(Substituted for the word "Provincial" by the Adaptation of laws order, 1950) State] Government of Assam as the [(Substituted for the word "Provincial" by the Adaptation of laws order, 1950) State] Government (The words "with the previous sanction of the Governor General in Council" where omitted by section 2 of the Devolution Act XXXVIII of 1920) may direct by notification in the official Gazette:

Provided that —

(a) Any such notification may declare that any portion of this Regulation shall not be in force in any territory to which the Regulation may be extended; and

(b) The [(Substituted for the word "Provincial" by the Adaptation of laws order, 1950) State] Government may direct by notification in the official Gazette that any portion of this Regulation shall cease to be in force in any territory to which the Regulation may have been extended.

(3) (Added by Act V of 1897) The [(Substituted for the word "Provincial" by the Adaptation of laws order, 1950) State] Government may, in like manner, amend, vary or rescind any notification issued under sub-section (2).

Notes – (1) The Regulation has been brought into force in Cachar, Goalpara, Kamrup, Darrang, Nowgong, Sibsagar and Lakhimpur with effect from the 1st July, 1886 Certain lands are exempted from the operation of Chapter II, vide section 4.

(2) The Regulation with the exception of sections 3-68, 69A-93, 95-144 and 145-159 has been brought into force in the North Cachar Hills with effect from the 28th April, 1930.

(3) The Regulation with the exception of sections 3-68, 69A-93, 95-144 and 115.159 has been brought into force in the Garo Hills District with effect from the 4th October, 1928 and in the Khasi and Jaintia Hills, Naga Hills and Lushai Hills districts with effect from the 16th March, 1929. (Inserted by Government Notification No. RSS 139/62, dated 9th June, 1962) Sub-sections (2) and (3) of section. 12 of the Regulation has been brought into force in the Khasi and Jaintia Hills district with from the 9th June, 1962.

(4) The Regulation has been brought into force in the tract transferred from the Mokokchung sub-division of the Naga Hills district to the Sibsagar district as defined in Notification No. 1436P., dated the 11th April, 1901, with effect from the 11th April, 1901.

(5) The Regulation was brought into force in the tracts described below:—

(i) The tract transferred from Naga Hills district to the district of Sibsagar by Notification No.5646R, dated the 9th December, 1898 as amended by Notification Nos. 988R, dated the 24th February, 1903 and 219R, dated the 29th January, 1923, with effect from the 25th November, 1924.

(ii) The tract transferred from the Naga Hills district to the district of Nowgong by Notification No.5646R, dated the 9th December, 1898, as amended by Notification Nos. 988R, dated the 24th February 1893 and 219R, dated the 29th January, 1923 and 1119R, dated the 30th April, 1923.

(iii) The tracts transferred from the Balipara Frontier Tract to the district of Darrang as specified to Notification No. RSS135/51/4, dated 25th April, 1951 and (b) from the Abor Hills and Mishimi Hills districts (Sadiya Frontier Tract) and the Tirap Frontier Tract to the district of Lakhimpur as specified in Notification No. RSS135/51/5, dated 25th April, 1951 with effect from 1st October, 1951.

(6) Regulation II of 1889 came into force on the 21st September, 1889.

(7) Regulation II of 1905 came into force on the 1st July 1905.

(8) Assam Act XV of 1947 came into force on the 22nd October, 1947.

(9) Assam Act XXII of 1962 came into force on the 15th February, 1963.

Repeal

2. On and from the date on which this Regulation comes into force in any territory, the enactments mentioned in the schedule hereto annexed, in so far as they apply to, or are in force in that territory, and all regulations and rules (if any) in force there relating to any of the matters provided for by this Regulation, shall be repealed:

Provided that —

(a) This repeal shall not revive any enactment repealed or affect anything done, or any offence committed, or any fine or penalty incurred, or any proceedings commenced, before this Regulation comes in force; and

(b) All rules prescribed, appointments and settlements made, powers conferred and notifications published under any enactment hereby repealed, and all other rules (if any) in force on the date on which this Regulation comes into force relating to any of the matters hereinafter dealt with, shall (so far as they are consistent with this Regulation and could be prescribed, made, conferred or published thereunder) be deemed to have been respectively prescribed, made conferred and published thereunder.

Definitions

3. In this Regulation, unless there is something repugnant in the subject or context, —

(a) "The commencement" of this Regulation, used with reference to any local area, means the date on which it comes into force in that local area;

(b) "Estate" includes —

(1) Any land subject, either immediately or prospectively, to the payment of land revenue, for the discharge of which a separate engagement has been entered into;

(2) Any land subject to the payment of, or assessed with a separate amount as land revenue, although no engagement has been entered into with the [(Substituted for the word "Grown" by the Adaptation of Laws Order, 1950) Government] for that amount;

(3) Any local area for the appropriation of the produce or products whereof a license or farm has been granted under rules made by the [(Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950)] Government under section 155, clause (e) or Clause (f);.

(4) Any char or island thrown up in a navigable river which under the laws in force is at the disposal of the [(Substituted for the word "Grown" by the Adaptation of Laws Order, 1950) Government]

(5) Any land which is for the time being entered in the Deputy Commissioner's register of revenue free estates as a separate holding;

(6) Any land being the exclusive property of the [(Substituted for the word "Grown" by the Adaptation of Laws Order, 1950) Government] of which the [Substituted for the word "Provincial" by the Adaptation of Laws order, 1950)] Government has directed the separate entry in the registers of revenue-paying and revenue-free estates mentioned in Chapter IV;

Explanation – Any land gained by alluvion or by dereliction of a river to any estate as here defined, which under the laws in force is considered an increment to tenure to which the land has accreted, shall be deemed to be part of that estate;

(c) "Permanently-settled estate" means any estate in the districts of [(Substituted for the word "Sylhet" by the Adaption Laws (Third Amendment) Order, 1951) Cachar and Goalpara included in the decennial settlement of the Lower Provinces of Bengal or permanently settled at any subsequent date under any law for the time being in force:

(d) "Temporarily-settled estate" means any estate not being a revenue-free or permanently-settled estate;

(e) "Land revenue" means any revenue assessed by the [(Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950) State] Government on an estate and include any tax assessed in lieu of land revenue.

(f) "Proprietor" means the owner of any estate permanently settled or entered on the Deputy Commissioner's register of revenue free estates;

(g) "Land-holder" means any person deemed to have acquired the status of a land holder under section 8;

(h) "Settlement-holder" means any person, other than a proprietor, who has entered into an engagement with the [(Substituted for the word "Grown" by the Adaptation of Laws Order, 1950) Government] to pay land revenue and includes a land-holder;

(i) "Recorded proprietor", "recorded land holder" "recorded sharer" and "recorded possession" mean any proprietor, land holder, sharer or possession, as the case may be, registered in the general registers prescribed in Chapter IV:

(j) "Agricultural year" means the year commencing on the 1st April, or on such other date as the [(Substituted for the word "Provincial" by the Adaptation of Law Order 1950) State] Government may, in the case of any specified local area, by notification, appoint:

(k) "Notification" means a notification published in the official Gazette; and

(l) "Prescribed" means prescribed by rules made under this Regulation;

(m) (Inserted by Assam Act XV of 1959) "Deputy Commissioner" includes and shall be deemed always to have included the Additional Deputy Commissioner.

(n) "Board" means the Assam Board of Revenue constituted under the Assam Board of Revenue Act 1959 or under any statutory re-enactment or modification thereof.

CHAPTER – II
RIGHTS OVER LAND

Land exempted from the operation of this Chapter

4. This Chapter shall apply to all and except the following:—
- (a) Land included in any forest constituted a reserved forest under the law for the time being in force:
- (b) (Clauses (b) and (c) of section 4 have been omitted and the original Clause (d) renumbered as Clause (b), vide Assam Act III of 1943 RR. 119 of 1942) Any land which the [(Substituted for the word “Provincial” by the Adaptation of Law Order 1950) State] Government may, by notification exempt from the operation of this Chapter.

Power to define boundaries of exempted land

5. (1) When the boundaries of any land exempted under section 4 from operation of this Chapter need definition for the purposes of that section, and no other mode of defining them is provided by law, the [(Substituted for the word “Provincial” by the Adaptation of Law Order 1950) State] Government shall cause them to be defined by the Deputy Commissioner.
- (2) If, before the boundaries are defined, any question arises as to whether any land is included within them, it shall be decided by the Deputy Commissioner.
- (3) The order by which a Deputy Commissioner defines any boundaries, or decides any question under this section shall, subject to the provisions of section 151 of this Regulation, be final.

Right which may be acquired over land

6. No right of any description shall be deemed to have been, or shall be, acquired by any person over any land to which this Chapter applies, except the following:—
- (a) Rights of proprietors, land holders and settlement-holders other than landholders, as defined in this Regulation, and other rights acquired in manner provided by this Regulation;
- (b) Rights legally derived from any right mentioned in Clause (a);
- (c) Rights acquired under section 26 and 27 of the Indian Limitation Act. 1877 (New Act IX of 1908)
- (d) Rights acquired by any person as tenant under the Rent Law for the time being in force:

Provided that nothing in this section shall be held to derogate from the terms of any lease granted by or on behalf of the [(Substituted for the word Crown” by the Adaptation of Laws Order, 1950) Government].

Rights of proprietor

7. Proprietors shall, subject to the provisions of this Regulation, have the same rights and enjoy the same privileges in respect of lands included in their estates as they have at the commencement of this Regulation.

Note – Section 3 of the Assam assessment of Revenue Free Waste Land Grant Act, 1948 has made a Revenue Free Waste Land Grant liable to assessment to, and the payment of revenue.

Status of land-holders how acquired

8. (1) (a) Any person who has, before the commencement of this Regulation, held immediately under the [(Substituted for the word "Crown" by the Adaptation of Laws Order, 1950) Government] for ten years continuously any land not included either in a permanently settled estate, or in a revenue-free estate, and who has during that period paid to the [(Substituted for the word "Crown" by the Adaptation of Laws Order, 1950) Government] the revenue due thereon, or held the same under an express exemption from revenue, and

(b) Except as provided by section 15, any person who has, whether before or after the commencement of this Regulation, acquired any such land under a lease granted by or on behalf of the [(Substituted for the word "Crown" by the Adaptation of Laws Order, 1950) Government], the term of which is not less than ten years,

shall be deemed to have acquired the status of a landholder in respect of the land.

(2) When any land held by one person has come immediately by transfer or succession to be held by another, the holding shall, for the purposes of sub-section (1), clause (a), be deemed to have been continuous and the latter person may, in reckoning the length of his holding add the holding of the former to his own.

(3) When any revenue has been paid in respect of land by any person holding the land under another, that revenue shall for the purposes of the said clause, be deemed to have been paid by the latter person.

Ruling – Clause (1) (b) of Section 8 of Regulation 1 of 1886 applies to a case in which person has acquired land not merely because it has been directly settled with him by the Government, but also because he has obtained it from the original grantee by transfer, succession or otherwise. It includes a case in which a person before the commencement of the Regulation acquired the land by inheritance from a person with whom it had been settled by the Government under a lease for a term not less than ten years.

Upon the death of the person with whom the settlement for ten years was made in 1884 and in spite of the hostile possession of a third person after his death, his heirs became the owners of the interest originally vested in him and as soon as the Regulation came into force on the 1st July 1880, the heirs became land holders within the meaning of clause (1) (b) of section 8 of the Regulation. Hence upon the expiry of the term of ten years fixed in the lease of 1884, the interest of the heirs did not completely terminate. They are entitled to claim settlement from the Government and their rights were not affected by settlement with a third person. Hedlot Khasia versus Karan Khasiani – 15 C L J 241 (July 1911)]

Rights of landholders

9. A land-holder shall have a permanent, heritable and transferable right of use and occupancy in his land, subject to —

(a) The payment of all revenue, taxes, cesses and rates from time to time legally assessed or imposed in respect of land;

(b) The reservation in favour of the [(Substituted for the word "Crown" by the Adaptation of Law Orders, 1950) Government] of all quarries and of all mines minerals and mineral oils, and of all buried treasure, with full liberty to search for and work the same, paying to the land-holder only compensation for the surface damage as estimated by the Deputy Commissioner; and

(c) The special conditions of any engagement into which the land-holder may have entered with the Government,

(Inserted by Correction Slip No. 41 to the Fifth Edition to this Manual) **Note** – For restriction on the right of transfer see Executive Instruction 6 in Part X Chapter II.

Forfeiture of landholders rights on relinquishment

10. Any land-holder who, after the commencement of this Regulation, voluntarily relinquishes any land and ceases to pay the revenue assessed thereon shall at once forfeit his status of land-holder in respect of that land.

Rights of settlement holders

11. A settlement-holder who is not a land-holder, shall have no rights in the land held by him beyond such as are expressed in his settlement lease.

Power to make rules for the disposal of Government lands and ejectment there from of unauthorised occupiers

12. (New section substituted by Regulation II of 1905) In the case of any land over which no person has the rights of a proprietor, land-holder or settlement-holder under this regulation, the [(Substituted for the word "Provincial" by the Adaptation of Law' Order, 1950) State] Government may make rules to provide for —

- (1) The disposal by way of grant, lease or otherwise of such land,
- (2) the ejectment of any person who has entered into unauthorised occupation of such land, and
- (3) The disposal of any crop raised, or any building or other construction erected without otherity on such land.

Note – For the rules framed under this section see Part II, Chapter I, SECTIONS I, II, and IV.

Rulings – (1) Whether a rule made under this section directs that if settlement is not made with the first applicant the reasons should be stated in writing, it does not follow that if the reasons are not recorded the first applicant is entitled to a settlement. Nor has he any claim under section ⁶(a) of the Regulation. [Ananda Kisore Sen versus Secretary of State for India in Council and another. – 14 C.W.N. 990 (June 1910)]

(2) Where a rule under this section directs that re settlement should ordinarily be made with the previous settlement-holder, the Civil Court has jurisdiction to see whether the officer making the settlement took the rule into consideration; but it has no jurisdiction to question the correctness or sufficiency of his seasons for excluding the previous settlement-holder in a particular case. [Joy Govinda Hajan versus Musst. Hazira Bibi – 24 C.W.N. 149 (March 1919)].

Power to make rules for allotment of grazing grounds.

13. The [(Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950) State] Government may make rules for the allotment from the land referred to in section 12 of grazing grounds to the inhabitants of any village in the neighbourhood whom they consider to stand in need of such allotment, and for regulating and controlling the enjoyment of those grazing grounds by persons permitted to resort thereto.

Note – For the rules framed under this section, see Part II, Chapter II and Part VII, Appendices II and III.

Power to make rules for allotment of lands for tribes practising jhum or migratory cultivation

14. The [(Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950) State] Government may make rules for the allotment from the land referred to in section 12, for the use of tribes or families practising (Jhum or migratory cultivation, or areas suitable for such cultivations, of sufficient extent, and situated localities reasonably convenient, for the purposes of the persons to whom they are allotted, and for regulating and controlling the enjoyment of lands so allotted by persons permitted to resort to the same.

Note – No rules have hitherto been framed by the [(Substituted for the word “Provincial” by the Adaptation of Laws Order, 1950) State] Government under this section.

Bar to acquisition of rights over land disposed of under sections 12, 13 and 14

15. No person shall acquire, by length of possession or otherwise, any right over lands disposed of or allotted under section 12, section 13, or section 14 beyond that which is given by the rules made under the section.

Rights in fishery

16. The Deputy Commissioner, with the previous sanction of the [(Substituted for the word “Provincial” by the Adaptation of Laws Order, 1950) State] Government, may, by proclamation published in the prescribed manner, declare any collection of water, running or still, to be a fishery; and no right in any fishery so declared shall be deemed to have been acquired by the public or any person, either before or after the commencement of this Regulation, except as provided in the rules made under section 155:

Provided that nothing in this section shall effect any express grant of a right to fish made by or on behalf of the [(Substituted for the word “Crown” by the Adaptation of Laws Orders, 1950) Government] or on any fishery rights acquired by a proprietor before the commencement of this Regulation, or the acquisition by a proprietor of such rights in any fishery forming after the commencement of this Regulation in his estate.

CHAPTER – III

SETTLEMENT AND RESUMPTION

PART A – GENERAL

Settlement operations defined

17. Settlement operations may consist of one or more of the following:—
- (a) Survey and demarcation;
 - (b) Assessment of land revenue of land;
 - (c) Records of rights.

General notification of settlement

18. (1) When any local area or class of estates is to be settled the [(Substituted for the word “Provincial” by the Adaptation of Laws Order, 1950) State] Government may (Substituted for the word “Provincial” by the Adaptation of Laws Order, 1950) notification shall —
- (a) Define the local area or class of estates to be settled, and
 - (b) Specify the settlement operations to be carried out.
- (2) The [(Substituted for the word “Provincial” by the Adaptation of Laws Order, 1950) State] Government may (the word; “with the previous sanction of the Governor General in Council” were omitted by section 2 of the Devolution Act XXXVII of 1920) amend or alter any such notification.

Power of State Government to exclude any local area, etc. from the operation of any portion of this chapter

20. The [(Substituted for the word “Provincial” by the Adaptation of Laws Order, 1950) State] Government may, by rule, direct that this Chapter or any one or more selection or portions of sections thereof shall not apply to any local area or to the settlement of any particular class of estates.

Note – It has been declared by Settlement rule 96A —

(1) That the following portion of the following sections of the Regulation shall not apply to the settlement of any area or estate in the Assam Valley or in the district of Cachar excluding Karimganj Subdivision. Viz. —

(i) Sub-section 2 of Section 33.

(ii) Sub-section 3 of section 33 so far as it relates to delivery of an acceptance.

(iii) Proviso (b) to section 34, and

(2) That in addition, section 18 and 19 shall not apply to any area or estate to the Assam Valley or in the district of Cachar excluding Karimganj Sub-division, which is not included in a village which has been traversed, surveyed, mapped and classed.

PART B – SURVEY AND DEMARCATIGN OF LAND

Power to call for information and assistance

21. Every proprietor and settlement-holder of any land and every person entitled to receive rent in respect of any land or occupying any land as a tenant, shall on the written requisition of a Survey officer, furnish, personally or otherwise, as the Survey officer directs, such information or assistance as may be required by that officer for the purposes of the survey of the land.

Power to require erection and maintenance of boundary marks

22. (1) Every proprietor and land-holder of any land, and every person entitled to receive rent in respect of any land, shall, on the written requisition of a Survey-officer, erect and repair such boundary marks on the land as the Survey-officer directs.
- (2) If any person on whom a requisition has been made under sub-section (1) fails to erect or repair any boundary-mark mentioned in the requisition, the Survey-officer may erect or repair it.

Procedure in case of boundary disputes

23. (1) Whenever in the course of survey it comes to knowledge of the Survey-officer that any boundary dispute exists, he shall notify the same to the Settlement-officer, who shall proceed as follows:—
- (a) If the dispute is between the proprietors of different estates, the Settlement-officer shall decide it on the basis of actual possession; or if he is unable to satisfy himself as to which party is in possession, he may determine by summary inquiry who is the person best entitled to possession, and may put him in possession; or he may refer the dispute to arbitration for decision on the merits, as provided in section 143;
- (b) If the dispute is between the settlement-holders of different estates, the Settlement-officer shall, after due inquiry, determine the proper boundaries of those estates.
- (c) If the dispute is between the [(Substituted for the word “Crowd” by the Adaptation of Laws Order, 1950) Government] and any settlement-holder as to whether any land is comprised in the settlement, the Settlement-officer shall, after due inquiry determine the dispute.
- (2) The order by which a settlement-officer determines any boundaries or any dispute under clause (b) or clause (c) of this section shall, subject to the provisions of section 151 of this Regulation, be final.

Note – (1) As no appeal lies to a superior revenue authority and the jurisdiction of the Civil Court is barred in cases under section 23 clause (b) and (c), the Settlement Officer must be very careful in deciding boundary disputes. The report of a mauzdar or any other local official may be a useful addition

to the evidence in the case, but independent evidence must also be taken if either of the parties does not agree to the report and offers to produce other evidence.

(2) When there is no special Settlement-Officer determines any boundaries or any dispute under clause (b) or clause (c) of this section shall, subject to the provisions of section 151 of this Regulation, be final.

Note – (1) As no appeal lies to a superior revenue authority and the jurisdiction of the Civil Court is barred in cases under section 23 clause (b) and (c), the Settlement Officer must be every careful in deciding boundary disputes, The report of a mauzdar or any other local official may be a useful addition to the evidence in the case, but independent evidence must also be taken if either of the parties does not agree to the report and offers to produce other evidence.

(2) When there is no special Settlement Officer, the powers of the Settlement Officer devolve under section 138(2) upon the Deputy Commissioner or Subdivisional Officer.

Power of Survey officer in certain cases to cause marks to be erected

24. Whenever the Settlement-officer has determined a dispute under section 23, and the order has become final or has been altered by a decree or order of any competent Court or authority, which has become final

and whenever it comes to the notice of the Survey-officer that any boundary has been determined by a competent Court or authority,

the Survey officer may cause such marks as he may think fit to be erected in order to secure the boundary permanently.

Note – In the course of the original cadastral survey of the plains portions of Assam, conducted between the years 1883 and 1897 by a professional party of the Government of India, Survey Department, the boundaries of the permanently-settled and revenue free estates and also or waste land grants, as then existing, were surveyed and as far as possible, demarcated. In their letter No. 2709-23R., dated the 22nd July, 1895. Government have declared that they will not in further recognise any boundary in these estates other than those laid down by the cadastral survey.

Penalty for removing boundary-marks

25. Any person wilfully destroying, removing or damaging any boundary-mark (not being a landmark fixed by the authority of a public servant within the meaning of section 434 of the Indian Penal Code) which has been lawfully erected shall be punished with fine which may extend to two hundred rupees for each mark so destroyed, removed or damaged, in addition to such sum as may be necessary to defray the expense of restoring the boundary-mark so destroyed, removed, or damaged.

Note (Added by Dr. L. Revenue/46 of 1938) – Action shall usually be taken in accordance with this section when any boundary-mark erected under section 22 and 24 and Statutory Rule 100 of the Regulation is destroyed, removed or damaged. Action may be taken under the provisions of section 434 of the Indian Penal Code also, when the section applies and the offence is of a grave nature.

Obligation to give notice of injury to boundary-marks

26. If any permanent boundary-mark lawfully erected on any land, or on the boundary thereof, is injured, destroyed or removed, or requires repairs, the proprietor or settlement-holder of the land, and every person entitled to receive rent in respect of the same or occupying it as a tenant, shall be bound to give immediate notice of the fact to the prescribed Revenue officer; and every person who omits, to give notice as required by this section shall be liable to a fine, not exceeding one hundred rupees, to be imposed by order of the Deputy Commissioner.

Power of [(Substituted for the word “Provincial” by the Adaptation of Laws Order, 1950) State] Government to make rules

27. The [(Substituted for the word “Provincial” by the Adaptation of Laws Order, 1950) State] Government may make rule prescribing the mode in which any survey conducted under the provisions of this Part shall be effected, and the manner in which all the cost of such a survey, compensation due on account of anything done under the orders of a Survey-officer, and all expenses incurred under this Part in erecting and repairing boundary-marks, shall be apportioned among and levied from proprietors and land-holders and persons entitled to receive rent in respect of land.

Note – The rules which have been framed by the [(Substituted for the word “Provincial” by the Adaptation of Laws Order, 1950) State] Government under sections 27 and 152 for the recovery of the cost of survey and boundary marks will be found in Part II, Chapter III.

PART C – ASSESSMENT OF LAND

Land liable to assessment

28. All land shall be deemed liable to be assessed to revenue, except —

(a) Land for the time being exempt from assessment under the express terms of any grant made or confirmed by, or on behalf of, the [(Substituted for the word “Crown” by the Adaptation of Laws Order, 1950) Government].

(b) Land in respect of which a tax is for the time being imposed under section 47:

Provided that nothing in this section shall —

(1) Affect the provisions of any settlement, grant or lease for the time being in force;

(2) Authorise the assessment of any land included in the limits of a permanently-settled estate, unless it is shown that it was not included in the permanent settlement;

(3) Affect any title to hold land revenue free if the title existed immediately before the commencement of this Regulation and was valid under the law then in force; or

(4) Authorise the assessment of any land which has been held revenue-free for sixty years continuously unless it is shown that the right so to hold in has ceased to exist.

Note – (1) When revenue-free baksha lands in Cachar are alienated, they should be assessed at full rates. The heritable nature of these lands when first bestowed is open to doubt, but it has been decided not to raise this question now.

Note – (2) The Nisf-khiraj lands held by the family of the Darrang Rajas were granted as a personal dignity, and are liable to assessment at full rates on alienation. An exception has been made, however, in favour of lands alienated prior to 1858.

Note – (3) Bona fide places of public worship which are not already regarded as Government land should, on the application of the settlement-holder and with the consent of the worshipers concerned, be recorded, as a matter of grace, as Government land, and should be exempted from the payment of land revenue for as long as they continue to be used for public worship.

Note – (4) When the settlement-holder is unwilling to relinquish to Government a piece of land which is used for bona fide public worship, but which is now included within his lease, the existing state of affairs should be maintained, that is, if the settlement-holder has hitherto been paying revenue for the land which is used for public worship he should continue to pay it; but if he has hitherto been paying no revenue for the land, he should not be called upon to do so without special orders from the [(Substituted for the word “Provincial” by the Adaptation of Laws Order, 1950) State] Government.

Note – (5) Under section 3 of the Assam Assessment of Revenue free Waste Land Grants Act, 1948 the Revenue free waste land grants as specified in section 2(1) of the Act have been made liable to assessment of revenue on and from 1st April, 1948.

Ruling – The effect of proviso 4 to section 28 of the Assam Regulation (1 of 1886) which is based on section 2 of the Bengal Regulation (II of 1805), is to exempt land from assessment if the owner can prove 60 years possession of it without payment of any revenue during that period and thus to introduce the rule of 60 years limitation. It is not necessary that the 60 years should be subsequent to the passing of the Assam Regulation. Proviso 2 to section 28 of that Regulation merely authorises assessment of lands excepted from the Permanent Settlement if they do not fall under any of the saving clauses. [Ananda Kumar Bhattacharjee versus Secretary of State for India – I.L. R, 43 Cal 973 (January 1915)]

Settlement rules

29. The [(Substituted for the word “Provincial” by the Adaptation of laws Order, 1950) State] Government may make rules prescribing the principles on which the land revenue is to be assessed, the term for which, and the conditions on which, settlements are to be made, and the manner in which the Settlement officer is to report for sanction his rates and method of assessment.

Note – (1) The term “settlement” in Assam has two distinct meanings, firstly, the allotment of unoccupied land at a revenue assessment Calculated at fixed rates, and secondly, the modification of the rates at which occupied land has been assessed, and at which unoccupied and will be assessed. The later process is distinctively known as “re-settlement”.

Note – (2) For the rules framed under this section see Part II, Chapter I.

Framing and submission of general proposals of assessment

30. The Settlement-officer shall, in accordance with the rules issued under section 29, frame general proposals of assessment for any local area or class of estates to be assessed, and submit those proposals to the [(Substituted for the word “Provincial” by the Adaptation of laws Order, 1950) State] Government.

Assessment and de ration thereof persons concerned

31. After the receipt of the orders of the [(Substituted for the word “Provincial” by the Adaptation of laws Order, 1950) State] Government thereon, and subject to such orders, the Settlement-officer shall ascertain, and make an order, determining the amount of the assessment proper for each estate, and shall, on a date and at place to be notified by proclamation in the prescribed manner, offer a settlement based thereon to the person with whom the settlement of the estate is to be made.

To whom settlement is to be offered

32. (1) The Settlement-officer shall offer the settlement to such persons (if any) as he finds be in possession of the estate and to have a permanent heritable and transferable right of use and occupancy in the same or to be in possession as mortgages of persons having such a right.
- (2) If the Settlement-officer finds no person in possession as aforesaid, it shall be in his discretion, subject to such rules as the [(Substituted for the word “Provincial” by the Adaptation of Laws Order, 1950) State] Government may make under section 12, to offer the settlement to any person he thinks fit.

Acceptance or refusal of settlement

33. (1) It shall be in the option of the person to whom a settlement is offered to accept or refuse the same.
- (2) If he is willing to accept it, he shall deliver to the Settlement-officer an acceptance in writing under his hand, in the prescribed form,

Note – Vide rule 63 in Part II, Chapter I, Section III and Form No. 13.

(3) If a person to whom a settlement has been offered does not, within the prescribed time, deliver such an acceptance or inform the Settlement officer in the prescribed manner that he refuse the proposed settlement, he shall, if the Settlement-officer by an order in writing so directs, be deemed to have accepted the settlement.

Effect of acceptance of settlement

34. When a settlement has been accepted, the revenue fixed hereby and no more shall be payable from such date and for such term, as the [(Substituted for the word “Provincial” by the Adaptation of Laws Order 1950) State] Government may fix in this behalf:

Provided that —

(Interested by Assam Act XV of 1959) (a) The revenue shall be liable to revision according to the law for the time being in force.

(b) A settlement shall not be final as against the [(Substituted for the word “Crown” by the Adaptation of Law Order, 1960) Government] until it has been sanctioned by the [(Substituted for the word “Provincial” by the Adaptation of Laws Order, 1950) State] Government;

(c) In the case of gain by alluvion, or by dereliction of a river, or loss by deluvion, during the currency of the settlement, increment shall be assessed and reductions granted by the Deputy Commissioner according to such limitations as to the extent of gain or loss and such other conditions as may be prescribed; and

(d) In any local area to which the [(Substituted for the word “Provincial” by the Adaptation of Loans Order, 1950) State] Government may, by notification, apply this clause, a settlement-holder may, after giving notice at the time and in the manner prescribed relinquish the estate of which he has accepted a settlement or any part thereof on which a separate part of the revenue has been apportioned and shall thereupon be released from all future obligation to pay the revenue of the estate, or the part thereof so apportioned, as the case may be,

Note – Clause (d) of section 34 has been applied to all the districts within which the Regulation is in force.

Effect of refusal of settlement

35. If the person to whom a settlement is offered refuses to accept it, it shall be in the discretion of the Settlement-officer, subject to such rules, as the [(Substituted for the word “Provincial” by the Adaptation of Loans Order, 1950) State] Government may make under Section 12, to exclude him for the term of the settlement from possession of the estate, and to offer the settlement thereof to any other person he thinks fit,

Procedure when some of those to whom the settlement is offered refuse

36. In the case of an estate held by several persons jointly entitled to an offer of a settlement, if some of those persons refuse to accept the offer, it shall be in the discretion of the Settlement-officer to exclude them from possession for the term of settlement and to offer the whole estate to the others.

Settlement officer when to apportion assessment over land

37. (1) When the whole or part of the land comprised in an estate is held in severalty, the Settlement-officer shall, on the application of any one or more of the settlement-holders, makes an order apportioning to several holdings the revenue assessed on the estate.

(2) Except as provided by sub-section (1), a Settlement-officer shall not apportion the revenue of an estate over the lands comprised therein unless he is required so to do by rules made by the [(Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950) State] Government in this behalf.

(3) No apportionment of the revenue by the Settlement-officer shall affect the joint and Several liability for the revenue imposed by section 63.

Representation of incompetent persons and of bodies of persons

38. (1) A lunatic, minor or other person incapable of making a contract, shall be deemed to be duly represented for all the purposes of this Part by his manager.

(2) A body of persons for whom representatives have been appointed in this behalf under rules made under Section 155, clause (d), shall be deemed to be duly represented for all the purposes of this Part by those representatives.

Effect of decision of Settlement-officer as to Settlement

39. Subject to the provisions of section 151 of this Regulation the order of Settlement-officer as to the person to whom a settlement should be offered, the amount of revenue to be assessed, and the nature and term of the settlement to be offered, shall be final and a settlement concluded with that person shall be binding on all persons from time to time interested in the estate; but, except as provided by Section 35 and 36, no person shall, merely on the ground that a settlement has been made with him or with some person through whom he claims, be deemed to have acquired any right to or over any estate, as against any other person claiming rights to or over that estate.

Ruling – Where the defendants were wrongly granted settlement and kept the plaintiffs out of possession, it was competent to the Civil Court not only to declare the title of the plaintiffs but also to put them in possession by ejectment of the defendants [Askar Main and others versus Sabad Ali Bora Bhuiya and others – C.W.N.; 32 540 (July 1889)].

(Reviews and dissents from the rulings in 1 L.R. 17 Cal., 819 and 24 Cal., 239)

PART D RECORD – OF RIGHTS

Record-of-rights

40. The settlement officer shall frame for each estate a record-of-rights in the prescribed manner.

Note – The record-of-rights is the jamabandi based on the chitha and the field map.

Entries in record and their effect

41. (1) Entries in the record made under section 40 shall be founded on the basis of actual possession and all disputes regarding such entries, whether taken up by the Settlement-officer of his own motion or on the application of a party concerned shall be investigated and decided by him on that basis and all persons not in possession, but claiming the right to be so, shall be referred by him to the proper Court.

(2) Every entry in the record-of-rights made under this section shall, until the contrary is proved, be presumed to be correct.

Determination of class of tenants and the rent payable by them

42. Notwithstanding any thing contained in section 41, in the case of any dispute respecting the class of any tenant under the Rent Law for the time being in force, or the amount of rent payable by such tenant, the Settlement-officer shall decide the dispute, or, where the rent is open to alteration, fix the rent according to the principles laid down in the said Rent Law, and, subject to the provisions of section 151 of this Regulation, his order shall be final.

Note – The Rent Law in force in the Karimganj Sub-division in the former Sylhet district is the Sylhet Tenancy Act (Assam Act XI of 1936), in the permanently settled portions of the Goalpara district it is the Goalpara Tenancy Act (Assam Act 1 of 1929), in the temporarily settled portions of the Goalpara district and in the districts on Kamrup, Darrang, Nowgong, Sibsagar, Lakhimpur and Cachar excluding Karimganj subdivision it is the Assam, (temporarily-settled District) Tenancy Act (Assam Act III of 1935).

PART E, RESUMPTION

Inquiry by Deputy Commissioners regarding land liable to resumption

43. Whenever a Deputy Commissioner has reason to believe that any land within his jurisdiction is being held wholly or partially free of assessment and is liable to be assessed under section 28, he may institute an inquiry, and the person claiming the land shall be bound to prove his title to hold the same wholly or partially free of assessment, as the case may be.

Report to [(Substituted for the word “Provincial” by the Adaptation of Laws Order, 1950) State] Government of result of inquiry

44. The result of every inquiry instituted by the Deputy Commissioner under section 43 shall be reported to the [(Substituted for the word “Provincial” by the Adaptation of Laws Order, 1950) State] Government for orders the prescribed manner.

Order of [(Substituted for the word “Provincial” by the Adaptation of Laws Order, 1950) State] Government on Deputy Commissioner’s report.

45. (1) In any case reported to the State Government under section 44, if the State Government declare the land not liable to assessment, their order shall be final except on proof of fraud or collusion on the part of or on behalf of the person interested.

(2) If the State Government declare the land liable to assessment, the Deputy Commissioner shall inform the person interested of the [(Substituted for the word “Provincial” by the Adaptation of Laws Order, 1950) State] Government’s decision, and shall proceed to assess the land in accordance with the rules made under section 29 and to settle it with the person in possession.

Suit in Civil Court to set aside [(Substituted for the word “Provincial” by the Adaptation of Laws Order, 1950) State] Government’s order directing resumption

46. Any person whose lands are assessed by order of the [(Substituted for the word “Provincial” by the Adaptation of Laws Order, 1950) State] Government passed under section 45 may at any time within one year from the date his being informed of the [(Substituted for the word “Provincial” by the Adaptation of Laws Order, 1950) State] Government’s order institute a suit in the Civil Court to have the order set aside failing which the order shall be final.

PART F. – HOE-TAX OR HOUSE-TAX

Hoe-tax or House-Tax

47. (1) The [(Substituted for the word “Provincial” by the Adaptation of Laws Order, 1950) State] Government may direct that in lieu of the revenue assessable on any land there shall be collected an annual tax on each male person who has completed the age of eighteen years taking part in the cultivation of the land at any time during the year of assessment, or on each family or house of persons taking part as aforesaid.

(2) The rates of the tax, the class of person upon whom, and the localities and mode in which it may be assessed, shall be determined by the [(Substituted for the word “Provincial” by the Adaptation of Laws Order, 1950) State] Government.

CHAPTER – IV

REGISTRATION

PART A. – THE PREPARATION AND MAINTENANCE OF REGISTERS

Registers to be kept

48. (1) The Deputy Commissioner of every district shall prepare and keep the following registers:—
- (a) A general register of revenue-paying estates;
 - (b) A general register of revenue-free estates; and
 - (c) Such other registers as the [(Substituted for the word “Provincial” by the Adaptation of Laws Order, 1950) State] Government may direct.
- (2) The registers shall be written in the prescribed form and language, and shall be prepared, arranged, kept and maintained in the prescribed manner.

Note – For the general registers prescribed under this section, see the rules in Part II, Chapter IV.

Existing Registers

49. Until registers are prepared for any tract under section 48, the [(Substituted for the word “Provincial” by the Adaptation of Laws Order, 1950) State] Government may direct that any registers kept by or under the control of the Deputy Commissioner at the commencement of this Regulation shall be deemed to be registers prepared under that section.

Note – (1) The form of general register prescribed in the rules under Chapter IV of the Regulation in accordance with section 48, have been written up for waste land grants and revenue-free estates throughout the State and for permanently-settled estates in Goalpara.

(2) They have not been written up for permanently-settled estates in Karimganj Subdivision of Cachar District. It has been decided that it would be a waste of time and labour to attempt the preparation of a general register of permanently settled estates in the absence of a cadastral survey of the subdivision. It has also been found impossible to substitute any register for the general register by a notification under section 49.

PART B – REGISTRATION

Liability of persons succeeding to estates to give information of succession

50. After the commencement of this Regulation —
- (a) Every proprietor or land-holder succeeding to any estate, or share in an estate, whether by transfer or inheritance, obtaining possession of the same;
 - (b) Every joint proprietor or joint land-holder, of any estate assuming charge of the estate or of any share therein on behalf of the other proprietors or land-holders thereof;
 - (c) Every person assuming charge of any estate of a proprietor or land-holder, or of any share therein as manager; and
 - (d) Every mortgage obtaining possession of any estate of a proprietor or land-holder, or of any share therein;

shall, within six months from the date of taking possession or assumption of charge, apply to the Deputy Commissioner of the district on the general registers of which the estate is borne for registration of his name as such proprietor, land-holder, manager or mortgage, and of the nature and extent of the interest in respect of which the application is made.

Note – (1) District Officer are responsible that the registers (jamabandis in the case of ordinary raiyatwai lands) are maintained to date by the entry of all changes in proprietary possession.

(2) They should get information from the Registering Officer regarding all deeds affecting rights in land which are produced before them for registration, a clerk being deputed once a week, if necessary, to extract the required information from the Sub-Register's books, Where separate registration clerk is entertained, the required information should be furnished monthly by the Sub-Registrar in the following form:—

- (i) Name of sub-registry officer
- (ii) Name and address of transferor
- (iii) Name and address of transferee
- (iv) Name and number of estate; its pargana and mauza
- (v) Specification of share transferred
- (vi) Date and description of deed
- (vii) Date of registration
- (viii) Remarks.

(3) It is the duty of the mandal or patwari to bring to notice all changes which he discovers in the course of his annual tours. The procedure to be followed in registering these changes after local investigation instead to by inquiry in Court is described in the Land Records Manual. The obligation of the mandal or patwari to report changes does not absolve private persons from liability under section 50 and 51.

Existing proprietor, etc., may apply for registration

51. Every person who, at the commencement of this Regulation, is in the possession of an estate or any share in an estate as proprietor or land-holder or as manager of the estate of a proprietor or land-holder, or as mortgagee, may apply to the Deputy Commissioner of the district on the general register of which the estate is borne for registration of his name as such proprietor, land-holder, manager or mortgagee and of the nature and extent of the interest in respect of which the application is made.

Procedure on application for registration

52. (1) On receiving an application under Section 50 or section 51, the Deputy Commissioner shall if he considers there are sufficient grounds for proceeding with the application, publish a notice requiring persons who object to the registration of the name of applicant, or who dispute the nature or extent interest in respect of which registration is applied have in a written statement of their objections, appear on a day to be specified in the notice not being less than one month from the date thereof.

(2) If the application alleges that the applicant has acquired possession of the estate, or share in an estate in respect of which he applies to be registered by transfer from any person, a copy of the notice shall be served on the alleged transfer or, if he is dead, upon his heirs.

Inquiry by Deputy Commissioner

53. On the day fixed in the notice issued under section 52, or as soon thereafter as possible the Deputy Commissioner shall consider any objections which may be advanced, and, after such further inquiry (if any) as appears necessary to ascertain the truth of the succession, assumption of charge or possession alleged in the application shall, if it appears to him that the succession accompanied by possession has taken place or that charge has been assumed or that the applicant is in possession, as the case may be, make an order directing registration.

Note – In uncontested casts evidence need not be recorded unless the registering office considers inquiry by the examination of witnesses necessary as to the feet of possession.

Power to Deputy Commissioner to direct registration on information received otherwise than through application

53.A (1) Notwithstanding anything contained in sections 50 to 53, where the Deputy Commissioner has received information, otherwise than through an application, of any such taking of possession or assumption of charge as is referred to in section 50; he may make an order directing the registration of the name of the person so taking possession or assuming charge.

Provided that —

(a) The information has been verified by local inquiry made by an officer not below the rank of an Assistant Settlement-officer, or

(b) Notice has been published and inquiry has been held in the manner prescribed by sections 52 and 53 as if an application for registration had been received, from the person to whom the information relates.

(2) Where any person is aggrieved by an order directing registration under this section which has been made after verification of the information received by local inquiry only, he may (within a period of 3 years of the date of such order) apply to the Deputy Commissioner to have such order set aside and on receipt of such application the Deputy Commissioner shall cancel the registration and then proceed to published the notice and hold the inquiry prescribed by section 52 and 53 as if an application for registration had been received from the person whose name had been registered.

Note – (1) For the procedure to be followed in dealing with mutation cases, by local investigation see the instructions in the Assam Land Records Manual. A case which has been disposed of by local investigation may be reopened on application, and should then be dealt with formally by inquiry in Court, Cases which cannot be disposed of by local investigation – including generally, all cases in which a dispute exists, must be made the subject of formal inquiry in court, after the Registration Rules (Chapter IV of Part II).

Note – (2) Petition of objection applications for mutation must be stamped

(3) Partition cases must be kept entirely distinct from mutation proceeding and an order granting separate pattas must never be issued in connection with an application for registration of names. Should any person desire, to have his share of a holding partitioned off to him, he must apply separately for partition under Chapter VI of the Regulation;

(4) The payment of land revenue in respect of the interest to be registered should not be made a condition precedent to registration.

Power to put one party in possession in case of dispute

54. If in the course of an inquiry made under section 53, a dispute regarding the fact of possession arises and the Deputy Commissioner is unable to satisfy himself as to who is in possession, he shall ascertain by summary inquiry who is the party best entitled to possession, and shall put him in possession and make the necessary entry in the proper register accordingly.

Note – (1) Orders should not be passed under this section on the summary local inquiry of Sub-Deputy Collector.

(2) Officers conducting summary registration inquiries under sections 53 and 54 should not let them drift into full and regular inquiries such as would have to be held in order to dispose of the matter finally in the Civil Court. It is necessary also to avoid going to the opposite extreme. The question of how deeply Revenue Officers should go into the matter is one of degree and can only be determined by plain commonsense.

(3) An officer should not leave it to the parties, as in a civil suit, to raise what issue they please, and adduce what evidence they please but should, on the dispute first developing itself before him, take the matter into his own hands and make up his mind as to limits to which he will push the inquiry.

(4) Deputy Commissioners should, when these cases come before them on appeal, give hints to their subordinate on particular points which will gradually guide them to the proper medium in such matters.

(5) The nature and extent of the interest must be recorded in a registration cases, even where the determination on this point is one of great difficulty.

Registration of tenures in permanently settled estate

55. After the commencement of this Regulation any person who holds a talukdari or other similar tenure which has been created since the time of the Permanent Settlement, and is held immediately from the proprietor of a permanently settled estate may apply to the Deputy Commissioner to have the tenure registered.

Proceduoren application for registration under section 55

56. (1) On receiving an application under section 55 the Deputy Commissioner shall serve a notice on the recorded proprietors of the estate in which the tenure is situated, and shall also published a general notice requiring the proprietors or any person interested, who object to the applications, to file within thirty days from the date of the notice a written statement of their objections.

(2) If within the time specified no objection is made, they Deputy Commissioner shall register the tenure.

(3) If within the time specified an objection is made by any recorded proprietor, the Deputy Commissioner shall examine the person so objecting and, if it appears that he has probable ground of objection, shall suspend proceedings and refer the parties to the Civil Court

(4) Provided that no tenure shall be registered under this section unless the Deputy Commissioner is satisfied that it has been created in good faith and at a rent not less than the full amount of the revenue fairly payable in respect of the lands comprised in it.

Note – Persons cannot obtain registration for a share in a revenue paying estate regarding which they have arranged with the registered proprietors to pay no revenue, or if any only a nominal. sum

CHAPTER IV – REGISTRATION

Registration

57. On any registry under this Chapter, fees may be levied from the person in whose favour the registration is made at the prescribed rates.

Note – For the rates prescribed, see rule 126 of the rules framed under this Chapter in part II, Chapter IV.

Penalty for non-registration

58. (1) If any person, being required by section 50 to apply for registration, voluntarily or negligently-omit to do so within the time specified in that section he shall be liable to a fine, to be imposed by the Deputy Commissioner which may extend to five time the amount of fee which would be payable under Section 57 for registration, and to such further daily fine as the Deputy Commissioner may think fit to impose, not exceeding one rupee for each day during which the person omits to apply for registration after a date to be fixed by the Deputy Commissioner in a notice requiring him to apply for registration; and

(2) A person required by Section 50 to apply for registration shall not acquire, or be deemed to have acquired, as against the Government any interest in land as proprietor, land-holder, manager or mortgagee, or be entitled to prefer any claim against the Government in respect of such interest, as long

as he omits to pay for registration but shall be subject to all the liabilities of a proprietor, land holder, manager or mortgagee so far as regards the payment of revenue and all other obligations to the (Government).

No person bound to pay rent of unregistered proprietor, etc.

59. (1) No person shall be bound to pay rent to any person claiming it as proprietor, land-holder, managers or mortgagee in possession of an estate, unless the name of the claimant has been registered under this Chapter.

(2) No person, being liable to pay rent to two or more such proprietors, land-holders, managers or mortgages, shall be bound to pay one such proprietor, land-holders, manager or mortgagee more than the amount which bears the same proportion to the whole of the rent as the extent of the share in respect of which the proprietor, land-holder, manager or mortgagee is registered bears to the entire estate.

Note – (1) It is immaterial whether the estate-holder was registered before the Assam Land and Revenue Regulation came into force or not. He must apply again for Registration under the Regulation if he wishes to establish a legal claim to rent.

Note – (2) The permanently-settled portion of Karimganj Subdivision was withdrawn along with other such areas of former Sylhet district from the operation of this section by Notification No. 27R, dated 26th July 1989.

Ruling – The Section applies to rents accruing due after the Regulation came into force or not to rents already due on the date on which it came into force. [(Braja Nath Choudhury and others versus Birmani Singh Manipuri – ILR. Cal. 227 (December 1887)].

PART C – MISCELLANEOUS

Public entitled to inspect and to apply for extracts from registers

60. Subject to the prescribed conditions and to payment of the prescribed fees, all registers kept under this Chapter shall be open to public inspection and subject as aforesaid, the Deputy Commissioner shall supply an extract from any such register to any person who may apply for the same.

Note – For the fees, etc. prescribed under this Section see Rule 129 of Part II, Chapter IV.

Power of Deputy Commissioner to pay recorded proprietors etc., money due to them in accordance with their registered interests

61. Whether any sum of money is payable (otherwise than under the Land Acquisition Act, 1894) by the Deputy Commissioner to two or more proprietors, land-holders, managers or mortgage, in possession of an estate, the Deputy Commissioner may pay to any one or more recorded proprietors, land-holders, managers or mortgages thereof, respectively, such portions of the said sum as may be proportionate to the extent of the mortgagee is registered, and the receipt of each such proprietor, land-holder, manager or mortgagee shall afford full indemnity to the Deputy Commissioner in respect of any sum so paid.

Saving clause

62. Nothing contained in this Chapter and nothing done in accordance therewith shall be deemed to —

(a) Preclude any person from bringing a suit in the Civil Court for possession of, or for declaration of his right to any immovable property to which he may deem himself entitled.

(b) Render the entry of any land in any register under this Chapter as revenue-free an admission on the part of the [(Substituted for the word “Crown” by the Adaptation of law, Order, 1950) Government] of the right of the person in whose name the land may be entered, or an admission of the validity of the title under which the said land is held revenue free.

CHAPTER – V

ARREARS AND MODE OF RECOVERING THEM

LIABILITY FOR REVENUE AND DEFAULT

Liability for land-revenue, etc.

63. Land-revenue payable in respect of any estate shall be due jointly and severally from all persons who had been in possession of the estate or any part of it during any portion of the agricultural year in respect of which that revenue is payable.

Liability for house tax of families of cultivators

64. When tax is imposed on a family or house in respect of the cultivation of any land, the amount due for any year of assessment from the family or house shall be jointly and severally from all males of the family or house who, at any time during the year, being then above the age of eighteen years, took any part in the cultivation of the land.

Procedure when coproprietor of permanently settled estate desires to pay separately

65. (1) When there are several recorded proprietors of a permanently-settled estate, any one of them whether he is entitled to a share of the estate or to particular lands comprised therein, may, if he desires to pay his share or portion, of the revenue separately, submit a written application to that effect to the Deputy Commissioner specifying his share of the estate or the particular lands therein to which he is entitled and when he claims particular lands the portion of the revenue for which, as between him and his coproprietors, he is liable.

(2) The Deputy Commissioner shall then publish a notice requiring all persons who object to the application to appear within six weeks from the date of the notice and give in a written statement of their objections.

(3) If within the period specified in the notice no objection is made by any recorded co-proprietor of the estate, the Deputy Commissioner shall open separate accounts for the applicant's share or lands and for the aggregate of the other proprietors, and shall credit separately in those accounts all payments made by him and them respectively.

(4) If any recorded co-proprietor of the estate objects that the applicant has, no right to the share or lands claimed by him, or that his interest in the estate is less or other than that claimed by him, or if the application is in respect of particular lands that the amount of revenue stated by the applicant to be payable on account of those lands is not the amount which is recognised among the co-proprietors as the revenue thereof, the Deputy Commissioner shall refer the parties to the Civil Court, and shall suspend proceedings until the objection is withdrawn or the question at issue is judicially determined.

(5) The opening of separate accounts under this section shall not affect the joint and several liability imposed by section 6 except in so far as is, by this Regulation, expressly provided.

Note – (1) If a person owns a particular lands in an estate, a person owning a share of the residue would not own a share of the estate but of particular lands, and he could therefore only open a separate account for the actual plots held by him and not for his share in the residue, the Regulation makes no provision for opening a separate account for share of particular lands.

Note – (2) In a case in which a halabadi and dassana estate, settled with the same owners were intermingled in such a way that while it was possible to define the boundaries of the aggregate of the two, it was impossible to determine which land within those boundaries belonged to each, it was ruled that no separate account could be opened for lands within those boundaries, inasmuch as it clear from section 65 that in order that a separate account may be opened in respect of particular lands they must be ascertained to be in some particular estates.

Note – (3) Separate account cases must not be postponed until arrears of revenue are paid.

Note – (4) If in any case in Karimganj Subdivision in which a person having opened separate accounts allows one portion of his estate to be brought to sale, the auction-purchaser complains that the opening of a separate account was secured by collusion and fraud, and that the apportionment of the jama is wrong, the Deputy Commissioner should call on the owners of the unsold portion of the estate to show cause against the order for a separate account being set aside and if they are unable to shown cause he should report the matter to the Commissioner for the order of Government.

Revenue when due, and where and to whom payable

66. Every sum payable under this Regulation on account of land-revenue, shall fall due on such date and shall be payable in such manner, in such instalments at such place and to such person, as may be prescribed.

Note – The instalment of land revenue and the dates on which they are due, in force in several districts will be found in Part II, Chapter V, Section I and V.

'Arrear' and 'defaulter' defined

67. Land-revenue not paid on the date when it falls due shall be deemed to be an arrear, and every person liable for it shall be deemed to be a defaulter.

NOTICE OF DEMAND

Penalty leviable on arrears and notice of demand

68. (1) When an arrear has accrued, an additional charge by way of penalty not exceeding one rupee may be levied.

(2) If the arrear is not in respect of a permanently settled estate, the prescribed officer may in his discretion, before employing any of the processes for enforcing payment prescribed by this Chapter, issue a notice of demand, calling on the defaulter to pay the amount within a time specified:

Provided that, in such classes of cases, not being cases in which an arrear has accrued in respect of a permanently-settled estate, as the [(Substituted for the word "Provincial" by the Adaptation of laws Order, 1950) State] Government may direct in this behalf, the prescribed officer shall not employ any such process for enforcing payment as aforesaid, until he has issued a notice of demand and the defaulter has failed to pay the arrear within the time specified in such notice.

Note – (1) For the "prescribed officer" referred to in this section, see rule 133 in Part II, Chapter V, Section I.

Note – (2) This section, it will be observed, empowers a Deputy Commissioner to issue in this discretion a notice of demand as an alternative to a warrant, and the issue of notice should precede the issue of warrant in the case of land holders of position who are ordinarily regular prayers.

Note – (3) In the case of temporarily-settled areas in Cachar the practice of issuing a notice of demand has been discontinued.

Notice – (4) In the case of temporarily-settled estates in Assam Valley, the notice of demand has been dispensed with, mauzadars are required to send warning notices by Post or messenger before proceeding to attach a raiyat's property.

SALE OF MOVEABLES

Attachment and sale of moveables

69. (1) The Deputy Commissioner may, for the recovery of an arrear, order the attachment and sale of so much of a defaulter's moveable property as will as nearly as may be defray the arrear.

(2) Every such attachment and sale shall be conducted according to the law for the time being in force for the attachment and sale of moveable property under a decree of a Civil Court, {(Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950) Subject to such modifications thereof as may be prescribed by rules framed by the [(Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950) State] Government for proceedings under the Assam Land Revenue Regulation}

(3) Nothing in this section shall authorise the attachment and sale of necessary wearing apparel, implement of husbandry, tools of artisans, materials of houses and other buildings belonging to and occupied by agriculturists, or of such cattle or seed-grain as may be necessary to enable the defaulter to earn his livelihood as an agriculturist.

Note – When the Deputy Commissioner intends to proceed against a defaulter's moveable property lying in a district, other than the district in which the arrear accrued, the provisions of section 3 of the Revenue Recovery Act (Act I of 1890) should be followed.

ATTACHMENT OF DEFAULTING ESTATE

Attachment of estate, application of profits and duration of attachment

69A. (New Section inserted by Regulation II, 1943) (1) When an arrear has accrued in respect of a temporarily-settled estate, the Deputy Commissioner, with the previous sanction of the Commissioner, may attach the estate, and may take it under his own management or let it in farm.

(2) During the continuance of such attachment, the settlement-holder shall be excluded from possession of the land attached, and the Deputy Commissioner or the person to whom it is let in farm by the Deputy Commissioner shall have all the rights of the settlement holder to manage the estate, and to realise the rents and profits arising therefrom.

(3) The surplus profits of the estate, after defraying the costs of attachment and of collection, shall be applied, first, to the payment of any revenue becoming due in respect of such estate during the attachment, and, next, to discharging the arrear for the recovery of which the attachment was made.

(4) The attachment shall continue until the arrear is paid or realised from the profits of the estate attached, or the Deputy Commissioner reinstates the settlement-holder in possession:

Provided that, without the sanction of the [(Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950) State] Government, no attachment shall continue for a longer period than five years.

S69B. (1) When an arrear has accrued in respect of any estate pertaining to a religious institution, the Deputy Commissioner after consultation with the Managing Committee of the religious institution, if there be any, may with the previous sanction of the Commissioner, attach such estate and may take it under his own management or may let it out in farm.

(2) Whenever the Deputy Commissioner attaches under sub-section (1) an estate pertaining to a religious institution to which another estate or other estates in the same district pertain, the Deputy Commissioner, may with the previous sanction of [(Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950) State] Government, also attach such other estate or some or all or such other estates and take it or them under his own management or let it or them out in farm.

(3) During the continuance of an attachment under sub-section (1) or (2), the settlement-holder or when an estate is lakheraj or revenue-free, the lakherajdar or proprietor, as the case may be, shall, be,

excluded from possession of the land attached; and the Deputy Commissioner or the person to whom it is let in farm by the Deputy Commissioner shall have all the rights of the settlement holder, lakherajdar or proprietor, as the case may be, to manage the estate or estates and to realise the rents and profits arising therefrom.

(4) (i) The income of every estate attached under sub-section (1) or (2) shall be applied as follows:—

Firstly, to the defraying of the cost of attachment, management and collection in respect of all the states so attached;

Secondly, to the payment of all sums lawfully due to the Government on account of revenue of otherwise in respect of any of the estates under attachment; and

Thirdly, to the discharge of the arrear for the recovery of which the attachment was made.

(ii) Should any surplus remain after the appropriations as aforesaid, it shall be paid to the person conducting the daily worship or prayer at the institution concerned on his furnishing such security as the Deputy Commissioner may require.

(5) (i) Save as provided in clauses (ii) and (iii) of this sub-section, every attachment under sub-section (1) or (2) shall continue until the arrears in respect of all the estates so attached are fully realised or paid.

(ii) When an estate is released from attachment, the Deputy Commissioner shall forthwith-reinstate the settlement-holder, lakherajdar or proprietor, as the case may be, in possession:

Provided that if the Deputy Commissioner is not satisfied that the further management of any such estate or estates would be such as would adequately ensure the punctual payment of future dues to Government in respect of such estate or estates, he may, with the previous sanction of the [(Substituted for the word "Provincial" by the Adaptation of Laws order, 1950) State] Government maintain the attachment of such estate or estates in force until he is so satisfied.

(iii) No attachment shall continue for a period longer than two years without the previous sanction of the [(Substituted for the word "Provincial" by the Adaptation of Laws order, 1950) State] Government.

SALE OF DEFAULTING ESTATE

When estate may be sold

70. When an arrear has accrued in respect of a permanently-settled estate or of an estate in which the settlement-holder has a permanent, heritable and transferable right of use and occupancy, the Deputy Commissioner may sell the estate by auction:

Provided that —

(1) {(Inserted by Regulation II of 1889) Except when the [(Substituted for the word "Provincial" by the Adaptation of Laws order, 1950) State] Government by general order applicable to any local area or any class of cases, or by special order, otherwise direct}, an estate which is not permanently-settled shall not be sold unless the Deputy Commissioner is of opinion that the process provided for in section 69 is not sufficient for the recovery of the arrear;

(2) If the arrear has accrued on a separate account opened under Section 65, only the shares or lands comprised in that account shall in the first place be put up to sale; and, if the highest bid does not cover the arrear, the Deputy Commissioner shall stop the sale, and direct that the entire estate shall be put up for sale at a future date, to be specified by him; and the entire estate shall be put up accordingly and sold;

(3) No property shall be sold under this section —

(a) For any arrear which may have become due in respect thereof while it was under the management of the Court of Wards, or was so circumstanced that the Court of Wards might have exercised jurisdiction over it under the law for the time being in force; or

(b) For any arrear, which may have become due while it was under attachment by order of a revenue authority.

Note – (1) In the temporarily-settled estates (the words “in the temporarily settled estates, in Note (1) to Section 70 were substituted for the words “Temporarily-settled estates in the Jaintia Parganas elsewhere,” vide memorandum No. L.R. 1167/403-R, dated the 3rd February, 19399), sale must not be resorted to as a general measure without the previous sanction of the [(Substituted the word “Provincial” by the Adaptation of Laws Order, 1950) State] Government which can only be given when it is clearly shown that the realisation of the arrears by the ordinary process is likely to be more than usually difficult.

Note (Inserted by Government Letter No. R.S. 4/46, dated the 18th May, 1946) – (2) Officer, holding revenue sales of temporarily-settled Estates are required to ignore the bids of those who are not bonafide cultivators such as Marwaris and others.

Note – (3) Ministerial or menial officers are not allowed to have to have anything to do with the sale or purchase of defaulting estates otherwise than to the extent necessary for the performance of their duties as officers of Government.

Note – (4) No mauzadar shall, without the permission of the Deputy Commissioner or Subdivisional Officer bid for or purchase land sold at his instance for arrears of revenue in his mauza.

Rulings – (1) A person who had no interest in as estate was in adverse possession of lands really included in the estate which was sold under Section 70 of the Assam Land and Revenue Regulation; he claimed those lands as situated within a neighbouring estate owned by him; his adverse possession had not, at the time of sale, continued for the statutory period so as to ripen into ownership:

Held, that he was not a defaulting proprietor at the date of the sale and as he was a stranger to the proceedings for delivery of possession, the symbolical delivery could not avail against him [Jitendra Kumar Pal Choudhury versus Mohendra Chandra Sarma and others, - 24 C.L.J. 62 (July 1914)]

(2) On a sale held under Section 70 of the Assam Land and Revenue Regulation on account of an arrear, a person who has acquired a good title by adverse possession against the original proprietor at the time of sale, is a defaulter and cannot assert a good title as against the purchaser, an unrecorded proprietor of the estate.

What is sold is the estate and the purchaser is entitled to take that estate as against the defaulting proprietors. [After Ali and others versus Brojendra Kishore Roy Choudhury, - 24 C.L.J. 60 (February 1915)].

(3) Where persons had acquired, by adverse possession, the proprietary interest in a part of an estate and had allowed the revenue to fall into arrear for which it had to be sold under the Assam Land and Revenue Regulation they were defaulters by reason of section 67 read with section 63 and not mere incumbrances. The fact that they claimed to possess the land as part of a different estate was immaterial, [Muhim Chandra Choudhury versus Pyari Lal Das, - I.L.R. 44, Cal, 412 (May 1916)].

(Seem to dissent from, without mentioning, the ruling in I.L.R. 43, Cal. 779)

(4) A purchaser at a sale for arrears of revenue under section 70 of the Assam Land and Revenue Regulation is entitled to sue the defaulting proprietors for recovery of possession within twelve years from the date of delivery of symbolical possession to him.

Such a purchaser may be one of the defaulting proprietors and he will have the same rights; except, however, in a possible case when the default and the sale are found to have been fraudulently procured by him whereby his very right of suing to recover possession from his previous co-owners is affected.

The article of the Limitation Act applying to such suits is not Art. 121 but 142 or 144. [Baikuntha Nath Das versus Sheik Azidulla and others, = C.W.N. 778 (February 1928)].

Estate to be sold free of incumbrances

71. Property sold under Section 70 shall be sold free of all incumbrances previously created thereon by any other person than the purchaser:

Provided that —

First, nothing in section shall apply —

(a) In a permanently-settled estate,

(1) To tenures which have been held from the time of the Permanent Settlement; or

(2) To tenures held immediately of the proprietors which have been created since the Permanent Settlement and which have been registered under Chapter IV:

(b) In any estate, to tenures created banafide and at (1) a rent not less than the full amount of the revenue fairly payable in respect of the land;

Secondly, nothing in this section shall entitle a purchaser to reject any tenant having a right time being in force, or to enhance the rent of any such tenant otherwise than is the manner prescribed by that law;

Thirdly, nothing in this section shall apply when the purchaser is a recorded or unrecorded proprietor or settlement-holder of the estate.

Fourthly, nothing in this section shall apply to encumbrances created in favour of State Government in any estate.

Ruling – A purchaser of a part of a permanently-settled estate is entitled to the benefit of section 71 of the Assam Land and Revenue Regulation, inasmuch as in Section 71 the words used are “property sold under Section 70”, and the property to which reference is made in section 70 includes both an estate as well as a share in respect o [(Mahamed Nasim versus Kasi Nath Gho e and another – I.L.Rs 26, Cal 194 (August 1898,)]

(1) In paragraph (b) of the first proviso to section 71 the word “at” after the words “bonafide and” was inserted by Revenue Department memorandum No. L.R. 2812-3919 R., dated the 7th November 1938.

Notice of sale

72. (New section substituted by Regulation II of 1889) (1) If the Deputy Commissioner proceeds to sell any property under Section 70, he shall prepare a statement in manner prescribed, specifying the property which will be sold, the time and place of sale, the revenue assessed on the property and any other particulars which he may think necessary.

(2) A list of all estates for which a statement has been prepared under sub-section (1) shall be published in manner prescribed, and the copy of the statement relating to every such estate shall to open to inspection by the pubic free of charge in manner prescribed.

(3) If the revenue of any estate for which a statement has been prepared under sub-section (1) exceeds five hundred rupees, a copy of the statement shall be published in the official Gazette.

Note – Sales for arrears need not be published in the Gazette unless the revenue of the share to be sold for arrears exceeds Rs 500; the total revenue paid by the estate is humaterial.

When the arrear has accrued on an estate, not being a permanently-settled estate in the district of [(Substituted for the word “Syllhet” by the Adaptation of Laws (Third Amendment) Order, 1951) Cachar] a copy of the statement prepared under sub-section (1) shall be served on the defaulter, or, if he cannot be found, pasted on the estate in manner prescribed.

(5) When the arrear has accrued on a permanently-settled estate in the district of [(Substituted for the word “Sylhet” by the Adaptation of Laws (Third Amendment) Order, 1951) Cachar] a copy of the statement shall be pasted on, or in the vicinity of, the estate in manner prescribed and, if any proprietor of the estate has registered his name and address in the manner prescribed, a copy of the notice shall be despatched to him, by post in a registered cover to that address.

(6) In making rules prescribing the manner of registering names and addresses for the purpose of sub-section (5), the [(Substituted for the word “Provincial” by the Adaptation of Laws Order, 1950) State] Government may impose a fee for such registration and may fix a period after which such registration will, unless renewed, become void.

Note – For details of procedure to be followed, the rules in Part – II, Chapter – V should be referred to.

Proclamation to tenants of defaulter

73. When any property is notified for sale under section 72, the Deputy Commissioner may publish a proclamation forbidding the tenants of the defaulter to pay the delaulter any rent which has fallen due since the arrear accrued, on pan of not being entitled to credit in their accounts with the purchaser for any sum so paid.

Sale by whom and when to be made

74. (1) Every sale under this Chapter shall be made either by the Deputy Commissioner in person or by an officer specially empowered by the [(Substituted for the word “Provincial” by the Adaptation of Laws, 1950) State] Government in this behalf.

(2) No such sale shall take place on a Sunday or other authorised holiday, or until after the expiration of at least thirty days from the date on which the list of estates (The words “list of estates” were substituted for the words “Proclamation of sale” by section 5 of Regulation II of 1889) has been published under section 72.

Note – The date of sale should be so fixed that the day preceding the sale is an open day and not a gazetted holiday.

(3) The Deputy Commissioner may, from time to time, postpone the sale, and every postponement of sale of a permanently-settled estate shall be reported to the Commissioner or (where there is no Commissioner) to the [(Substituted for the word “Provincial” by the Adaptation of Laws Order, 1950) State] Government.

When sale may be stayed

75. If the defaulter pays the arrear of revenue in respect of which the property is to be sold, and the fee (if any) prescribed in this behalf, at any time before the day fixed for the sale, the sale shall be stayed.

Note – (1) For the fee prescribed under this section (1) see rules 165 and 169 in Part II, Chapter V, Sections III, and IV.

(2) The Deputy Commissioner of Cachar should have a notice stuck up outside his own and Karimganj subdivisional at cutcheries warning the public that tender of payment of arrears in respect of Karimganj Subdivision on the day of sale will not be accepted except for very special reasons.

Right of coproprietors to purchase share or land sold on separate account

76. Where the arrear has accrued on a separate account opened under Section 65, and a sale of the entire estate has been directed under Section 70, proviso (2), any proprietor of the estate who is not comprised in the separate account may, within ten days from the time at which the direction is given, purchase the share or lands comprised in the separate account by paying the amount of the arrear, and the provision of Section 71 shall, notwithstanding the third proviso thereto, apply to such a purchase.

Note – In a case when a separate account has been opened for a portion of an estate and the estate was sold for arrears accruing on the remaining portion, it was held by the State Government that under section 95(3) there must necessarily be a separate account for the remaining portion, and therefore a proprietor having any share in that portion is not entitled to purchase the estate under the section.

Deposit by purchaser

77. The person declared to be the purchaser at an auction-sale under the foregoing sections shall be required to deposit immediately twenty-five per centum on the amount of his bid, and in default of such deposit the property shall forthwith be again put up and sold.

Payment of balance of purchase-money and consequences of default

78. (1) The full amount of purchase-money shall be paid by the purchaser before sunset of the fifteenth day from date on which the auction-sale took place or, if that day is a Sunday or other authorised holiday then on the next following office day.

(2) In default of payment within that period the deposit, after defraying thereout the expenses of the sale, shall be forfeited to the Government, the property shall be re-sold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may be subsequently sold:

Provided that no re-sale under this section shall be made unless and until a fresh notice has been issued in the manner prescribed for the original sale.

(3) If the proceeds of the sale which is eventually made are less than the price bid by the defaulting purchaser, the deference shall be leviable from him under the provisions of this Chapter as if it were an arrear.

[Introduced by the Assam Land and Revenue (Amendment) Act, 1936 (III of 1936)] [Provided that the provisions of this section shall not apply to any case in which the sale has been set aside under Section 78A before the full amount of purchase-money falls due under sub-section(1) of this section.]

Application to set aside sale on depositing percentage of purchase money

- 78A. (Introduced by the Assam Land and Revenue (Amendment) Act, 1936 (III of 1936) (1) Where an estate has been sold under Section 70 or 76 any person may apply [(Substituted by the Assam Land and Revenue (Amendment) Act, 1946 (Assam Act XI of 1946) at or before noon on the sixtieth day from the date of sale, reckoning the said day of sale as the first of the said sixty] to have the sale set aside on depositing in the Deputy Commissioner's Court —

(a) For disposal as directed in sub-section (2) a sum equal to five per cent of the purchase-money up to Rs 1,000 and to three per cent on the excess over Rs 1,000 provided that such sum shall not be less than one rupee; and

(b) For payment of [Substituted for the word "Provincial" by the Adaptation of Laws Order 1950) State] Government, the amount specified in the proclamation of sale as that for recovery of which the sale was ordered together with the expenses of the sale.

(2) If deposit and application be made as afore said, the Deputy Commissioner shall set aside the sale and shall cause to be repaid to the purchaser the purchase-money so far as it has been deposited

together with the deposit made under sub-section (1) (a), unless the former has been forfeited to the Government under sub-section (2) of Section 78, in which case the latter sum shall also be forfeited to the Government.

(Added by Assam Land and Revenue (Amendment) Act, 1946, Assam Act XI of 1946) (3) Nothing in this sanction shall be deemed to create in favour of the person making such deposit any title or right to such estate or part of estate merely by virtue of the fact that he has made such deposit or that the sale has been set aside at his instance.

Explanation – The word ‘estate’ in this section includes a separate account opened under section 65.

Application to set aside sale on ground of mistake or irregularity

79. At anytime within sixty days from the date of the sale, application in writing may be made to the Deputy Commissioner, to set aside the sale on the ground of some material irregularity of mistake in publishing or conducting it:

Provided that no sale shall be set aside on this ground unless the applicant proves to the satisfaction of the (Substituted by Assam Act XI of 1946) Deputy Commissioner, that he has sustained substantial injury by reason of the irregularity or mistake complained of:

(The Second proviso was added by section 7 of Regulation II of 1889) Provided also that the non-delivery or misdelivery of a registered cover despatched under section 72, sub-section (5), shall not, for the purposes of this section, be deemed an irregularity or mistake in publishing or conducting the sale.

Note (1) – Before any application is entertained under Section 79 or any recommendation is made under Section 81 of the Regulation for annulment of the sale or an estate for arrears of revenue, a deposit should be required of a sum of money sufficient to cover the arrears of revenue for which the estate is sold, the cost of sale, the claim for interest at the rate of 6 per cent per annum on the purchase-money, as also all intermediate payments of Government dues which may have been made by the auction purchaser. In case in which no recommendation for annulment of sale is made but the sale is set aside by the Board on appeal, the payment of interest on purchase-money at 6 per cent, per annum is always made one of the conditions of the order passed, and if that condition is not complied with, the order becomes null and void or, in other words, the sale become final. It is for the Deputy Commissioner concerned to insist upon compliance within a reasonable time, with the conditions which may be imposed by the orders passed by the Board and for this purpose a period of 15 days from the date on which the orders are communicated to the appellant may be considered a reasonable interval to allow.

(Inserted by C.S. No. 48 to the fifth edition of this Manuals) (3) The following procedure is recommended for the recovery of interest charges when the mauzadar or revenue office is at fault in sale cases —

(i) Where the mauzadar after accepting payment of revenue does not takes proper steps to stop the sale, he shall bear the interest on the purchase-money;

(ii) Where the mauzadar proves that a report for stay of the sale was duly submitted, the fault should be presumed to be with the dealing clerk in the office who should therefore bear the interest charges;

(iii) And finally where the mauzadar alleges but cannot prove that a report for stay of the sale was duly submitted, the interest charges should be distributed by the Deputy Commissioner between the mouzadar and the dealing clerk on the basis of the evidence available.

(4) Deputy Commissioner should insist on the grounds of appeal being clearly and unequivocally stated before they receive or forward to higher authority a petition of appeal.

(5) A Deputy Commissioner is not bound to hear a pleader when a report on a petition for setting aside a sale comes before him.

Sale when final

80. (1) A sale on which the purchase-money has been paid as directed in section 78, and against which no application under section [(Inserted by C.S. No. 62 to the fifth edition of this Manual. 78A or] 79 has been preferred, shall subject to the provision of sections 81 and 82, be final at non or the sixtieth day from the day of sale, reckoning the said day of sale as the first of the said sixth days.

(2) A sale against which such an application has been preferred and has been dismissed by the [(Substituted by Assam Act XXII of 1962) Deputy Commissioner] shall, subject as aforesaid, be final from the date of the dismissal, if more than sixth days from day of sale, or if less, then at noon of the sixtieth day as above provided.

Ruling – What is stated in the sale certificate as the date of confirmation of sale cannot operate in law as the date when the sale become final under section 80 of the Assam Land and Revenue Regulation. (Jitendra Kumar Pal Choudhury versus Mohendra Chandra Sarma and other, C.L. & 62 (July, 1914).

Obiter – A sale certificate is not conclusive as to the date on which a sale under section 70 of the Assam Land and Revenue Regulation becomes final (Baikuntha Nath Das versus Sheik Azdulla and other, - C.W.N, 778 (February 1928).

See Notes under Section 79.

Annulment of sale by Civil Court

82. (1) A sale for arrears of revenue shall not be annulled by a Civil Court, except on the ground of its having been made contrary to the provisions of this Regulation, and on proof that the plaintiff has sustained substantial injury by reason of the neglect of those provisions.

(2) A suit to annul such a sale shall not be entertained upon any ground, unless that ground has been specified in an application made to the 1 Deputy Commissioner under section 70, or unless it is instituted within one year from the date of sale becoming final under section 80.

(3) No person shall be entitled to contest the legality of a sale after having received any portion of the purchase-money.

Saving of right to sue for damages

83. Nothing in the foregoing sections shall be construed to debar any person, considering himself wronged by any act or omission connected within a sale under this Regulation from his remedy in a suit for damages against the person by whose act or omission he considers himself to have been wronged.

Re-payment of purchase money when sale is set aside

84. Whenever the sale of any estate is set aside [Inserted by C.S. No. 63 to the fifth edition of this Manual ½ substituted by Assam Act XXI of 1962) except under Section 78A] the purchaser shall be entitled to receive back from the [(Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950) State] Government his purchase-money, except the surplus thereof (if any) paid away under the last clause of section 87, with or without interest, at such rate not exceeding six per centum per annum, as the [(Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950) State] Government think fit.

On sale becoming final purchaser to be put in possession

85. (1) After a sale has become final, the Deputy Commissioner shall put the purchaser into possession of the property sold, and shall grant him a certificate to the effect that he has purchased the property to which the certificate refers.

(2) The certificate shall bear the date on which the sale became final under Section 80, and the title to the property sold shall vest in the purchaser from the date of the certificate and not before.

(3) A certificate granted to a purchaser under this section shall be conclusive evidence in his favour, and in favour of any person claiming under him that every publication serving, posting or despatch of any statement, list, notice or letter required by this Regulation, or the rules made under it, to be published, served, posted or despatched has been duly effected; and the title of any person who has obtained any such certificate or of any person claiming under him, shall not be impeached or affected under Section 82 or otherwise by reason of any omission, informality or irregularity as regards the publication, serving, posting or despatching of any statement, list, notice or letter in the proceedings under which the sale was held at which the property was purchased:

Provided that nothing in this sub-section shall effect the power conferred on the Board by section 81.

Ruling – A suit for recovery of possession brought within 12 years from the date on which the Collector gave symbolical possession to the purchasers, is within time. [Mohim Chandra Chudhury Versus Pyari Lal ILR. 44, Cal, 412, May 1916]

Application of proceeds of sale

86. The name of the purchaser to be entered in the certificate shall be that of the person declared at the time of sale to be the actual purchaser, and any suit brought in a Civil Court against the certified purchaser on the ground that purchase was made on behalf of another person not the certified purchaser, though by agreement the name of certified purchaser was used, shall be dismissed with costs.

Bar of unit against certified purchaser

87. When a sale has become final under Section 80, the proceeds, of the sale shall be applied—

First, to defraying the expenses of the sale;

Secondly, to the payment of the arrear due;

Thirdly, to the payment of any other arrear due by the same defaulter;

And the surplus, if any, shall be paid to the person whose property has been sold, and shall not, except under an order of a Civil Court, be payable to any creditor of that person.

Note – (1) Payment before suit, if made to a wrong person, may subject Government to a second claim from the rightful owner, but after a Civil Court has given a decree in favour of any person and Government has in compliance therewith paid him, it does not seem probable that any second claim against Government could stand good. Nonetheless, as Government has a residuary right to all unclaimed deposits, this interest alone will justify Government in meeting all such suits with resistance until a good title as proprietor has been made out by the claimant. When therefore a suit is brought, so far should Government contest it as shall secure that a bonafide good title is shown before a decree is passed.

(2) The claims of proprietors on account of the surplus sale proceeds or their estate should never be rejected on the ground of limitation.

Liability of purchaser for revenue

88. The person named in the certificate of title as purchaser shall be liable for all instalments of land revenue becoming due in respect of the property purchased subsequently to the accrual of the arrear for the recovery of which the property was sold.

Right of pre-emption

89. When an estate held by settlement-holders situate in any local area to which the [(Substituted for the word "Provincial" by the adaptation of Laws Order, 1950) State] Government may, by notification, apply this section, is sold under section 70, any recorded settlement-holders of the estate, not being himself in arrear with regard to the revenue which, as between him and the other settlement-holders, is payable by him, may, if the lot has been knocked down to a stranger, claim to take the property at the sum last bid;

Provided that the claim is made on the day of sale, and before the officer conducting the sale has left the office for the day, and that the claimant fulfils all the other conditions of the sale.

Note – The provisions of this section have been extended to all the plains districts.

ANNULMENT OF SETTLEMENT

Annulment of settlement

90. (1) Where the estate in respect of which the arrear has accrued is not a permanently-settled estate, and is situate in any local area to which the [(Substituted for the word "Provincial" by the adaptation of Laws Order, 1959) State] Government may, by notification, apply this Section, if the process provided for in section 69 is not sufficient for the recovery of the arrear the Deputy Commissioner may, by proclamation publish in the prescribed manner, annul, the existing settlement of the estate and relinquish the claim of the Government to the arrear:

Provided that —

(a) If the arrear is in respect of an estate in which the settlement-holder has a permanent, heritable and transferable right of use and occupancy, the Deputy Commissioner shall not unless the [(Substituted for the word "Provincial" by the adaptation of Laws Order, 1950) State] Government otherwise, by rule direct, annul the settlement without the sanction of the [(Substituted for the word "Provincial" by the adaptation of Laws Order, 1950) State] Government,

(b) This sanction shall not apply to the recovery of any arrear which may have accrued on an estate —

(1) While it was under the management of the Court of Wards or was so circumstanced that the Court of Wards might have exercised jurisdiction over it under the law for the time being in force, or

(2) While it was under attachment by order of a revenue authority.

(2) Upon the publication of a proclamation under this section, all encumbrances, other than the tenures mentioned in section 71, proviso first clause (b) affecting the estate, or any portion thereof shall become void, and the Deputy Commissioner (may eject the settlement-holder from possession and) may enter upon and manage the estate and receive all rents and profits accruing therefrom, or may dispose of the estate, in accordance with rules issued by the [(Substituted for the word "Provincial" by the adaptation of Laws Order, 1950) State] Government under section 12.

Note – (1) The provisions of section 90 have been extended to all the districts in which the Regulation generally is in force.

(2) Deputy Commissioners have power to annul for arrears the settlement of estates in which the settlement-holder have not a permanent, heritable and transferable right of use and occupancy. The annulment of settlement of an estate carries with it the remission of the arrear due thereon, and it is not necessary to apply for separate sanction to the remission

(3) Deputy Commissioner are empowered to remit process fees in all cases in which the original demand is remitted or the process has been issued by mistake.

(4) An order formally annulling settlement should invariably be recorded when arrears due on annual pattas other than in fault ferar cases are remitted by Deputy Commissioners. Deputy Commissioners should submit to the Commissioner a quarterly return in Form No. 10, showing the number of annual estates in each subdivision the settlement of which has been annulled during the quarter under section 90 of the Regulation and the amount of revenue remitted thereon.

(5) When under this section possession of an estate has been taken on behalf of Government, the Deputy Commissioner may, if immediate eviction would cause undue hardship, allow the former tenants or members of his family to continue to reside in the homestead free of rent, or subject to such rent as he may think fit, for the period of one year and may, for special reasons extent the terms for such residence from year to year. Details of all cases, of this nature shall be entered in a register to be kept in the Deputy Commissioners office.

(6) See also rule 150 in Part II Chapter V. To provide for the treatment of contumacious defaulters the following executive instructions were issued —

(i) No land, the settlement of which has been annulled on account of arrears will be resettled with the defaulter or with any member of a joint family to which the defaulter belongs, without the special sanction of the Deputy Commissioner or Subdivisional Officer. Such sanction will not be given unless and until the arrears on account of which the settlement has been annulled have been first paid with all costs of proceedings taken for their realisation.

(ii) Every mandal will visit at least once a year every field in his circle the settlement of which has been annulled under section 90 and will submit a special report to the mauzadar in every case in which he finds that a defaulter has reoccupied land from which he has been ejected without paying the arrears and obtaining settlement. It will also be the duty of the goonburas to report to the mauzadar any such cases which may come to their notice, and the mouzadar will report them to the Deputy Commissioner or Subdivisional Officer for order.

(iii) In resettling lands, the settlement of which has been annulled on account of arrears, preference will be given to an applicant who tenders payment of the arrears and costs. Such land will not, during the agricultural year in which settlement is annulled, be settled with any person without payment of the arrears cost otherwise than on annual lease.

SALE OF IMMOVEABLE PROPERTY OTHER THAN THE DLFAULTING ESTATE

Power to proceed against defaulter's other immoveable property

[91. (1) If an arrear of an estate in which the settlement-holder has not a permanent, heritable and transferable right of use and occupancy, cannot be recovered by the process mentioned in Section 69, and an arrear in respect of any other estate, cannot be recovered by any of the processes mentioned in this chapter;

And the defaulter is in possession of any immoveable property, other than the estate in respect of which the arrear has accrued, the Deputy Commissioner may proceed against any of that other property situated within his district according to the law for the time being in force for the attachment and sale of immoveable property under the decree of a civil court".] (Substituted vide Assam Act XXVIII of 1971)

(2) If there is no such other property in his district the Deputy Commissioner may make under his hand a certificate in the prescribed form, of the amount of the arrear remaining unpaid, and may forward the same to the Deputy Commissioner of any other district in which this Regulation is in force, and within the limits of which defaulter is possessed of any such property, and that Deputy Commissioner shall there upon proceed to realise the arrear as if it were an arrear accruing in his own district.

(1) Note 1 – This section must be carefully distinguished from section 70. When an estate is sold for own arrears, section 70 applies; when an estate is sold for arrears not, its own section 91 applies. The sale procedure and the legal effects of the sale are different in the two cases.

When a mauzadar defaults and the estate pledged by his surety is sold in consequence under the Regulation, the sale, being of an estate for arrears other than its own, is governed by the provisions of the section 91. Accordingly the safe rules in Order 21 of the Civil Procedure Code must be observed. In particular, as laid down in rule 73 of the aforesaid Order, no officer or other person having any duty to perform in connection with the sale should, either directly or indirectly, bid for the property. The officer conducting the sale should not therefore, attempt to buy in the property for Government even in the absence of bids from others. Some persons not coming within the prohibition contained in the rule cited may however, with the permission of the officer conducting the sale, bid for and purchase the property on behalf of Government in any case where such a course is considered necessary or desirable.

(2) Note 2 – The expression in sub-clause (1) ‘the law for the time being in force for the attachment and sale of immoveable property under the decree of a Civil Court’, includes the procedure laid down in the Civil Procedure Code not only for the determination of claims and objections arising out of such sales and for setting them aside. In other words this section confers jurisdiction on the Deputy Commissioner to hear and determine claims and objection arising out of sale of immoveable property held under this section and applications to set aside such sale, in accordance with Order XXI of the Code of Civil Procedure.

SUPPLEMENTAL

Recovery cost

92. The costs of serving any notice, proclamation or other process under this Chapter shall be recoverable as part of the arrear in respect of which such process was issued.

Recovery of existing arrears

93. Arrears of land-revenue due at the commencement of this Regulation shall be recoverable as nearly as may be according to the provisions of this Chapter.

Recovery of other money

94. The provision of this chapter shall, so far as may be, apply to the recovery of any sum of money realisable under any enactment for the time being in force as if it were an arrear of land-revenue.

Power of [(Substituted for the word “Provincial” by the adaptation of Laws Order, 1950) State] Government to make rules

95. The [(Substituted for the word “Provincial” by the adaptation of Laws Order, 1950) State] Government may, from time to time make rules, not inconsistent with this regulation, to provide for the proper performance of all things to be done, and for the regulation of all proceedings to be taken, under this Chapter.

Note – For the rules framed under this Chapter, see Part II, Chapter V.

CHAPTER VI

PARTITION AND UNION OF REVENUE PAYING ESTATES

“Perfect partition” and “imperfect partition” defined

96. Partition is either perfect or imperfect, “Perfect partition” means the division of a revenue paying estate into two or more such estates, each separately liable for the revenue assessed thereon. “Imperfect partition” means the division of a revenue paying estate into two or more portions jointly liable for the revenue assessed on the entire estate.

Persons entitled to partition

97. (1) Every recorded proprietor of a permanently-settled estate and every recorded land holder of a temporarily-settled estate may, if he is in actual possession of the interest, in respect of which he desires partition, claim perfect or imperfect partition of the estate:

Provided that —

(a) No person shall be entitled to apply for perfect partition if the result of such partition would be to form a separate estate, liable for an annual amount of revenue less than five rupees;

(b) No person shall be entitled to apply for imperfect partition of an estate unless with the consent of recorded co-sharers holding in the aggregate more than one half of the estate;

(c) A person may claim partition only in so far as the partition can be effected in accordance with the provisions of this Chapter.

(2) When two or more proprietors or landholders would be entitled under sub-section (1) to partition in respect of their respective interests in the estate, they may jointly claim partition in respect of the aggregate of their interests.

Note – Applications for partitions must not be granted if included in an application for mutation of names.

Ruling – (1) An estate does not cease to be an entire estate within the meaning of the Assam Land and Revenue Regulation (1 of 1886) because a few plots of land are common to it and some other estate, or because they are brahmotter or debutter, or because they are held in some undefined way jointly with other persons, *Sarat Chandra Purkayastha versus Prakash Chandra Das Chowdhury and others* I.L.R. 24. Cal. 751 (May 1897.)

(2) The revenue authorities have jurisdiction to partition a mauza appertaining to several estates as a step towards partitioning one of the estates (*Brojendra Kishore Ray Charudhury versus Kali Kumar Chaudhury* – I L R 46, Cal 236 (May 1918).

(3) The revenue authorities have jurisdiction to partition an estate even when the lands of that estate in whole or in part, are joint with the land, of other estates. (*Yasin Ali* I.L.R. 47, Cal: 354, 26 C.W.N. 381 (August 1919).

Application for perfect partition

98. Every application for perfect partition shall be in writing, shall be presented to the Deputy Commissioner, and shall specify the area of the estate, the applicant's interest therein, and the names of the other proprietors or land-holders.

Notification of application

99. (1) The Deputy Commissioner, shall, if the application is in order and not open to objection on the face of it, publish a proclamation at his office, and at some conspicuous place on the estate to which the application relates; and shall serve a notice on all such of the recorded proprietors or land holders of the estate as have not joined in the application, requiring any of them in possession who may object to the partition to appear before him and state their objections, on a day to be specified in the proclamation and notice, not being less than thirty or more than sixty days from the date on which the proclamation is issued.

(2) Where from any cause, notice cannot be personally served on any proprietor or land-holder, the proclamation shall be deemed sufficient notice under this section.

Objection on question of title

100.(1) If an objection preferred as required under section 99 raises any question of title which has not been already determined by a Court of competent jurisdiction, the Deputy Commissioner shall stay his proceedings for such time as, in his opinion, is sufficient to admit of a suit being instituted in the Civil Court to try the objection.

(2) A Deputy Commissioner staying his proceedings under this section shall make an order requiring the objector, or, if for any reason he deems it more equitable, the applicant, to institute such a suit within the time fixed, and, in the event of such a suit not being instituted within that time, may in his discretion, disallow the objection, or dismiss the application, as the case may be.

(3) On a suit being instituted to try any objection under this section, the Deputy Commissioner shall with reference to the objection, be guided by the orders passed by the Civil Court in the suit.

Other objections how dealt with

101. If any objection, other than an objection of the nature referred to in section 100, is preferred as aforesaid to the partition, the Deputy Commissioner shall dispose of it himself; unless for any reason he thinks fit to require that it be submitted to a Civil Court for adjudication, in which event the provisions of section 100 shall apply to the objection.

Proceedings of Deputy Commissioner after objections have been disposed of

102. When the period specified under section 99 has expired, and the objections (if any made have been disposed of by the Deputy Commissioner or by the Civil Court as the case may be, the Deputy Commissioner shall, if no such objection has been allowed, proceed to make the partition:

Provided that the Deputy Commissioner may, in his discretion, in order to admit of the institution of an appeal from any decision regarding an objection, or for any other reason he deems sufficient, further postpone his proceedings.

Mode of partition

103. The Deputy Commissioner may give the parties the option of making the partition themselves, or of appointing arbitrators for the purpose; or he may make, the partition himself.

Power to enter on land for purpose of partition

104. In making partitions the Deputy Commissioner and any person appointed by him, shall have the same powers for entry on the land under partition, for making out the boundaries surveying and other purposes, as have been conferred on Survey-officers by or under this Regulation.

Partition of lands hold only in severalty

105. Where there are no lands held in common, the lands held in severalty by the applicant for partition shall be declared a separate estate, and shall be separately assessed to the Government revenue.

Partition of lands some of which are held in common

106.(1) Where some of the lands are held in common, the Deputy Commissioner shall allot to the applicant for partition his share of those lands in accordance with village-custom if any such exists. If no such custom exists, Deputy Commissioner shall make such division as may secure to the applicant his fair portion of the common lands.

(2) The portion of the common lands falling by the partition to the share of the applicant shall be added to the land held by him in severalty, and the aggregate thus formed shall be declared a separate estate, and shall be separately assessed to the Government revenue.

Portion where all lands are held in common

107.(1) Where some of the lands are held in common, the Deputy Commissioner shall allot to the applicant for partition his share of those lands in accordance with village-custom if any such exists. If no such custom exists, Deputy Commissioner shall make such division as may secure to the applicant his fair portion of the common lands.

(2) The portion of the common lands falling by the partition to the share of the applicant shall be added to the land held by him in severalty, and the aggregate thus formed shall be declared a separate estate, and shall be separately assessed to the Government revenue.

Portion where all lands are held in common

107. Where all the lands are held in common, the Deputy Commissioner shall make such a partition as may secure to the applicant his fair share of the estate, and the land allotted to him shall be declared a separate estates, and shall be separately assessed to the Government revenue.

Transfers to be effected in making partition

108. In making the partition under section 105 or section 106, the Deputy Commissioner shall give effect of any transfer of lands held in severalty, forming part of the estate, agreed to by the parties and made before the declaration of the partition.

Estates to be compact

109. In all cases, each estate shall be made as compact as possible:

Provided that, except with the sanction of the Commissioner or, where there is no Commissioner, with the sanction of the [(Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950) State] Government, no partition shall be disallowed solely on the ground of incompactness.

Rule when building of one sharer is included in estate assigned to another

110.(1) If, in making a partition, it is necessary to include in the estate assigned to one sharer the land occupied by a dwelling house or other building in the possession of another co-sharer, that other co-sharer shall be allowed to retain it with any buildings thereon, on condition of his raying a reasonable ground-rent for it to the sharer into whose portion it may fall.

(2) The limits of the land, and the rent to be paid for it, shall be fixed by the Deputy Commissioner.

Rule as to tanks, wells after-courses and enbandments

111.(1) Tanks wells, water-courses and embankments shall be considered as attached to the land for the benefit of which they were originally made.

(2) Where from the extent situation or construction of any such work, it is found necessary that it should continue as the joint property of the proprietors or land-holders of two or more of the estates into which the estates is divided' the Deputy Commissioner shall determine the extent to which the proprietors or land-holder of each estate may make use of the work, and the proportion of the charges for repairs to be borne by them respectively, and the manner in which the profits, if any, derived from the works, are to be divided.

Rule as to places of worship and burial grounds

112.(1) Places of worship and burial grounds held in common previous to the partition of an estates, shall continue to be so held, unless the parties otherwise agree among themselves.

(2) In such cases they shall state in writing the agreement into which they have entered, and their statement shall be filed with the record.

Determination of revenue payable by each portion of divided estate

113.(1) The amount of revenue to be paid by each portion of the divided estate shall be determined by the Deputy Commissioner:

Provided that the aggregate revenue of the new estates shall not exceed the revenue assessed on the estate immediately before partition.

(2) The proprietors or land-holders of each of the new estates shall be jointly and severally liable for the portion of the revenue assessed on their estate, whether new acceptances are taken from them or not.

Costs

114.(1) The [(Substituted for the word "Provincial" by the Adaptation of Law Order, 1950) State] Government shall make rules for determining the costs of partition under this Act, the mode in which those cost are to be apportioned, and the parties by whom, and the stage of the proceedings at which, they are to be paid:

Provided that the cost of surveying an estate, when a survey is necessary for the purpose of partition, shall be paid rateably, by all the proprietors or land holders of the estate, according to their interests therein.

Note – For the rules framed under this section, see Part II, Chapter VI.

(2) If the costs to be paid by the applicant for partition are not paid within a time to by fixed by the Deputy Commissioner subject to the rules made under this section, the case may by struck off the file.

Power to stay partition

115.If at any stage of the proceedings there appears to be any reason for stopping the partition, the Deputy Commissioner may, of his own motion, stay the partition and order the proceedings to be quashed.

Proclamation of partition

116.On completion of a partition the Deputy Commissioner shall publish a proclamation of the fact at his office and at some conspicuous place on each of the new estates or in the estate of which they originally formed part, and the partition shall take effect from the beginning of the agricultural year next after the date of the proclamation.

Procedure to be followed by Deputy Commissioners in giving effect to the protition

116A. (New section inserted by Regulation II of 1960) As soon as may be after the date on which the partition takes effect under the last proceeding section, the Deputy Commissioner shall deliver to the several sharers possession of the separate lands allotted to them, and for this purpose may, if necessary, summarily eject any proprietor or land-holder who may refuse to vacate the same.

Appeal from decision of Deputy Commissioner

117.An appeal against the decision of the Deputy Commissioner making a partition shall lie to the 2 (Board) within one year from the date on which the partition takes effect.

Power to order new allotment of revenue on proof of fraud or error in the first distribution

118. Where the revenue is fraudulently or erroneously distributed at the time of partition, the [(Substituted for the word "Provincial" by the Adaptation of Law Order, 1950) State] Government may, within twelve years from the time of discovery of the fraud or error, order a new allotment of the revenue upon the several estates into which the estate has been divided, on an estimate of the assets of each estate at the time of the partition to be made conformably to the best evidence and information procurable respecting the same.

Making of imperfect partition

119. Imperfect partition shall be carried on according to the provisions of the preceding section so far as they are applicable.

Persons entitled to union

120. If a recorded proprietor or land-holder is in possession of two or more revenue-paying estates, he may, subject to the rules framed under section (2), claim to have those estates united, and to hold them as a single estate.

Power to make rule

121. The [(Substituted for the word "Provincial" by the Adaptation of Law Order, 1950) State] Government may make rules, not being inconsistent with this Regulation, as to the procedure and principles to be observed in dealing with applications for, and in carrying out, the partition and union of estates, and in assessing the land revenue on estates divided.

CHAPTER VII

POWERS OF OFFICERS

State Government

122. The [(Substituted for the word "Provincial" by the Adaptation of Law Order, 1950) State] government shall (The words "subject to the control of the Governor General in Council" committed by section 2 of the Devolution Act, XXX of 1920)

Ex-officio Revenue officer

123. Every Commissioner of a Division, Deputy Commissioner, Assistant Commissioner and Extra Assistant Commissioner shall be a Revenue-officer for the purposes of this Regulation.

Appointed of other Revenue Officer

124. (1) The words "subject to the control of the Governor General in Council" committed by Section 2 of the Devolution Act, XXX of 1920) *** The [State Government may for the purposes of this Regulation —

(a) Appoint to each district, in addition to the officers mentioned in section 123, as many other Revenue-officers as they think fit, and

(b) Suspend or remove any officer appointed under this section.

Note – The following officers have been appointed to be Revenue-officers in addition to the officers mentioned in section 123:—

(1) Tahsildar including Naib Tahsildars

(2) Sub-Deputy Collectors;

(3) Mouzadar in the Assam Valley

(4) Revenue Nazirs including Naib Nazirs,

(5) All officers who are authorised to receive payment of land revenue or other money realisable under the Regulation or rules issued thereunder, and who have given, or are required to give, security for the due performance of their duties.

Subdivision Officer

125.(1) The [(Substituted for the word "Provincial" by the Adaptation of Law Order, 1950) State] Government may, for the purposes of this Regulation —

(a) Divide any district into subdivisions, or make any portion of a district a sub-division, and may alter the limits of a sub-division, and

(b) Place any Assistant Commissioner or Extra Assistant Commissioner in charge of one or more subdivisions of a district, and at any time remove him therefrom.

(2) An Assistant Commissioner or Extra Assistant Commissioner in charge of a subdivision shall be called the Subdivisional Officer.

Powers of Subdivisional Officers

126.(1) Subdivisional Officer shall, in addition to any other powers conferred on him by or under this Regulation, have the following powers of a Deputy Commissioner, namely:—

(a) Power to dispose of cases of gain by alluvion or by dereliction of a river, and loss by diluvion under section 34.

(b) Power to inquire into and report on revenue-free holdings and to assess revenue on resumed lands under Chapter III, Part E,

(c) The powers conferred by sections 50 to 58 (both inclusive) in respect of registration,

(d) Power to attach and sell moveable property belonging to defaulters under Chapter V, and

(e) Subject to the confirmation of the Deputy Commissioner, power to receive applications and to do all that is necessary for effecting partition and union of estates under Chapter VI.

(2) The [(Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950) State] Government may confer on any Subdivisional Officer all or any of other powers of a Deputy Commissioner under the Regulation.

Note – All Subdivisional Officers in the plains districts of Assam have been vested ex-officio with the following powers in addition to those conferred on them by the Regulation :—

(i) Power to find for omission to give notice of injury to boundary marks (section 26)

(ii) Power conferred by section 65 in respect of the opening of separate accounts.

(iii) Powers conferred by Section 70, 72, 73, 74, 75 and 85 in respect of the sale of defaulting estates.

(iv) Power to proceed against immoveable property for arrears of revenue [Section 91(1)]

(v) Power to proceed against defaulting Revenue-Officers and their sureties (Section 145 and 146).

(vi) All sub-divisional Officers in the plains districts of Assam have been voted with powers to received and dispose of applications under Section 78A.

Power to invest Assistant Commissioner, etc, not in charge of subdivision with special powers

127. The [(Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950) State] Government may confer upon Assistant Commissioners and Extra Assistant Commissioners not in-charge of subdivisions of districts all or any of the powers conferred by or under this regulation on Subdivisional Offices in such cases or classes of cases as the Deputy Commissioner of the district may, from time to time, refer to them for disposal.

Subordination of Revenue-Officers

128. (1) All Revenue-Officers in a district shall be subordinate to the Deputy Commissioner, and shall exercise all powers conferred on them by or under this Regulation subject to his control.

(2) Subject to the general control of the Deputy Commissioner, all Revenue-Officers, other than the Subdivisional Officer, in a Subdivision of a district shall, unless [(Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950) State] Government otherwise direct, be subordinate to the Subdivisional Officer, and shall exercise all powers conferred on them by or under this Regulation subject to his control.

(3) Subject to the general control of the [(Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950) State] Government, all Revenue-Officers in a district which is included in a Commissioner's division shall be subordinate to the Commissioner, and shall exercise all powers conferred on them by or under this Regulation subject to his control.

(4) Subject to the general control of the State Government, all Revenue-Officers shall be subordinate to the Board and shall exercise all the powers conferred on them by or under this Regulation subject to its control.

Power to distribute work

129. (1) Subject to any rules which the [(Substituted for the word "Provincials" by the Adaptation of Laws Order, 1950) State] Government may make in this behalf, Deputy Commissioner or Subdivisional Officer may refer any case to any Revenue-Officer subordinate to him for investigation and report, or, if that officer has power to dispose of the case, for disposal.

(2) Subject as aforesaid, a Deputy Commissioner may direct that any Revenue-Officer subordinate to him shall, without such reference, deal with any case or class of cases arising within any specified area, and either investigate and report on the case or class of cases or if he has power, dispose of it himself.

(3) A subordinate Revenue-Officer shall submit his report on any case referred to him under this section for report to the officer referring it, or otherwise as may be directed in the order of reference; and the officer receiving the report may, if he has power to dispose of the case, dispose of the same, or may return it for further investigation to the officer subordinating the report, or may hold the investigation himself.

Note – Rule 184 of the rules in Part – II, Chapter – VII framed under Section 129, 152 and 155(b) and (c), lays down that no case shall be referred for investigation or report or a Revenue-Officer of lower rank than a Tahsildar Mauzadar or Sub-Deputy Collector, and that no Revenue-Officer below that rank shall be directed to Deal with, and to investigate and report on any case or class of cases without reference. These orders, however, only prohibit revenue cases being referred to officers of inferior standing; there is nothing to prevent any officer being employed to hold a local inquiry and report on disputed facts in connection with a case, e.g., question of disputed possessions boundaries, etc.

Power of superior revenue authorities to withdraw and transfer cases

130. The Board or a Deputy Commissioner or Subdivisional Officer may withdraw any case pending before any Revenue Officer subordinate to, it of him and other dispose of it, itself or himself or refer it for disposal to any other Revenue Officer subordinate to it or him and having power to dispose of the same.

Powers of officers transferred to another district

131. Whenever any Revenue-Officer who has been invested with any powers under this Regulation in any district or subdivision is transferred to another district or subdivision, he shall, unless the [(Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950) State] Government otherwise direct, be held to be invested with the same powers in the district or subdivision to which he is so transferred.

Provision for discharge of duties of Deputy Commissioner dying or being disabled

132. When a Deputy Commissioner dies or is disabled from performing his duties, such officer as the [(Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950) State] Government may by Rule direct shall take executive charge of his district and shall be deemed to be a Deputy Commissioner under this Regulation, until, successor to the Deputy Commissioner so dying or disabled is appointed, and that successor takes charge of his office, or until the person so disabled resumes charge of his office.

Part B – Settlement and Survey-officers

Appointment of Settlement officers

133. (1) The [(Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950) State] Government may appoint a Settlement-officer to be in-charge of the settlement of any local area or class of estates, and as many Assistant Settlement-officers as they think fit; and all Assistant Settlement-officers so appointed shall be subordinate to the Settlement-officer.

Note – (1) All mauzadars in the Assam Valley, and in the case of Mauzadar who are minors, their Sarbarahkars, have been appointed ex-officio Assistant Settlement-officers.

(2) Mauzadars in Cachar Excluding Karimganj Subdivision have been appointed ex-officio Assistant Settlement Officers.

(2) The [(Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950) State] Government may suspend or remove any officer appointed under this section.

Appointment of Survey officer

134. The [(Substituted for word "Provincial" by the Adaptation of Laws Order, 1950) State] Government may appoint a Survey-officer to be in-charge of the survey of any local area or class of estates, and as many Assistant Survey-officers as they think fit; and all Assistant Survey-officers so appointed shall be subordinate to the Survey-officer.

(2) The [(Substituted for word "Provincial" by the Adaptation of Laws Order, 1950) State] Government may suspend or remove any officer appointed under this section.

Powers of Settlement-officers

135. A Settlement-officer shall, in addition to any other power conferred on him by or under this Regulation, have in the local area or class of estates under settlement —

(a) All the powers conferred by Chapter III, Part E, on a Deputy Commissioner; and

(b) When a survey does not form part of the Settlement all the powers conferred by Chapter III, Part B, on a Survey officer,

Power of Assistant Settlement-officers and Assistant Survey officers

136. An Assistant Settlement-officer and Assistant Survey officer shall have all the powers conferred by this Regulation on a Settlement-officer and Survey-officer respectively, subject to such restrictions as the Settlement-officer may from time to time, impose:

Provided that no Assistant Settlement-officer shall, unless specially empowered by the [(Substituted for word "Provincial" by the Adaptation of Laws Order, 1950) State] Government, have power —

- (a) To frame proposals for assessment under section 30;
- (b) To exclude persons under sections 35 and 36 for refusal to accept settlement; or
- (c) To assess land which the [(Substituted for word "Provincial" by the Adaptation of Laws Order, 1950) State] Government has under section 45, sub-section (2) declared liable to assessment.

Investing of Settlement officers with special powers

137. The [(Substituted for word "Provincial" by the Adaptation of Laws Order, 1950) State] Government may invest any Settlement-officer, Survey-officer, Assistant Settlement officer, or Assistant Survey officer with all or any of the powers of a Deputy Commissioner under this Regulation, within such limits, and with such restrictions, and for such period, or Survey officer as they think fit.

Note – All mauzadars in the Assam Valley Districts, and in the case of mauzadars who are minors, their Sabarahkars, having been appointed as Assistant Settlement Officers, have been invested with the powers —

- (a) To effect registration under section 53A in uncontested cases and
- (b) To dispose of under Chapter VI of the Regulation, all applications for partition of revenue paying estates in which no objection is preferred.

Exercise of powers of Settlement-officer Survey-officer by other officers

138. (1) At any time during the currency of settlement the [(Substituted for word "Provincial" by the Adaptation of Laws Order, 1950) State] Government may invest any officer with all or any of the powers of a Settlement officer or Survey-officer under this Regulation, within such limits, and with such restrictions, and for such period, as they think fit.

(2) If no Settlement-officer or Survey-officer is appointed, and no officer is invested with the powers of a Settlement-officer or Survey-officer under Sub-section (1), the Deputy Commissioner and Subdivisional officer (if any) shall have all the powers conferred by this Regulation on a Settlement-officer as the case may be.

PART C – MODE OF CONFERRING AND WITHDRAWING POWERS

Re-Conferring and withdrawing of powers

139. (1) In conferring powers under this Regulation the [(Substituted for word "Provincial" by the Adaptation of Laws Order, 1950) State] Government may (The words "Subject to such rules as the Governor-General in may make Council this behalf," were omitted by section 2 of the Devolution in of 1929 Act, XXXVIII) empower persons by name or classes of officials generally by their, official title and may vary or cancel any order conferring such powers.

(2) The [(Substituted for word "Provincial" by the Adaptation of Laws Order, 1950) State] Government may withdraw from any officer the powers conferred on him by this Regulation.

CHAPTER VIII

PROCEDURE

Place for holding Court

140. Subject to the orders of the [(Substituted for the word "Provincial" by the Adaptation of Laws Order 1950) State] Government —

(a) The Board may hold Court at any place within the State of Assam'

(b) A Deputy Commissioner, and Assistant Commissioner, or Extra Assistant Commissioner, (whether-in-charge or not of a Subdivision of a district), a Settlement-officer, an Assistant Settlement-officer, a Survey-officer, and an Assistant Survey-officer may hold his Court at any place within the limits of the district or subdivision to which he is appointed.

Power to summon persons to give evidence, etc.

141. (1) The [(Substituted by Assam Act XXII of 1962) Board] and any officers mentioned in section 140 may summon any person whose attendance they consider necessary for the purposes of any investigation or other business before them conducted under this Regulation.

(2) (Substituted for the word "Provincial" by the Adaptation of Laws Order 1950) All persons so summoned shall be bound to attend either in person or by authorised agent as the Board or such officer may direct;

And to state the truth upon any subject respecting which they are examined;

And to produce such documents and other things as may be required.

Power to fine person summoned for non-attendant etc

142. (Substituted for the word "Provincial" by the Adaptation of Laws Order 1950) If any person fails to comply within the time fixed by a notice served on him with any requisition made upon him under section 141, the Board or the Officer as the case may be, making the requisition may impose upon him such daily fine as they or he thinks fit, not exceeding fifty rupees, until the requisition is complied with Provided that, whenever the amount levied under an order under this section passed by an Officer exceeds five hundred rupees the Deputy Commissioner shall report the case to the Board and no further levy in respect of the fine shall be made otherwise than by authority of the Board.

Power to refer disputes to arbitration

143. (1) The [(Substituted for the word "Provincial" by the Adaptation of Laws Order 1950) State] Government, a Deputy Commissioner, a Sub-divisional Officer, a Settlement-officer or an Assistant Settlement-officer, a Survey-officer or an Assistant Survey-officer may with the consent of the parties, refer any dispute before them to arbitration.

(2) In all cases referred to arbitration the procedure laid down in the Code of Civil procedure in force for the time being shall be followed so far as applicable and the officer referring the case shall discharge the function of the Civil Court.

Recovery of fines and costs

144. All fees, rents, fines, costs, and other money payable under this Regulation, or under rules made by [(Substituted for the word "Provincial" by the Adaptation of Laws Order 1950) State] Government under this Regulation shall be recoverable as an arrear or land revenue.

Recovery of rents, fees royalties and moneys of odve to the Government certain cases

144-A. (New section inserted by Regulation II of 1905) All rents, fees, and royalties due to the [(Substituted for the word "Crow" by the Adaptation of Laws Order, 1950) Government] for the use or occupation of land or water (whether the property of the [Government] or not) or on account of any products thereof and all moneys falling due to the [(Substituted for the word "Crow" by the Adaptation of Laws Order, 1959) Government] under any grant, lease security bond, or contract which provides that they shall be so recoverable, may be recovered under this Regulation in the same manner as an arrear of land-revenue.

Proceedings against defaulting Revenue-officers

145. If a Deputy Commissioner has reason to believe that a Revenue-Officer subordinate to him, who has collected any sum due under this Regulation, has absconded, or is about to abscond, with out accounting for such sum, he may issue a warrant for the apprehension of the officer, and proceed against him, or cause proceedings to be instituted against him, under Chapter V as if he were a defaulter in the amount so collected.

Proceeding against sureties of defaulter Revenue-officers

146. Any person who has become liable for any amount as surety for a defaulter or Revenue-officer may be proceeded against in the manner prescribed in Chapter V, as if he were a defaulter in such amount.

Authority to whom appeals lie

147. Appeals shall lie under this Regulation as follows:—

- (a) To the Board from orders, original or appellate passed by a Deputy Commissioner Settlement officer or Survey officer;
- (b) To the Deputy Commissioner, from orders passed by a Subdivisional Officer, an Assistant Commissioner or Extra Assistant Commissioner;
- (c) To the Settlement Officer, from orders passed by an Assistant Settlement Officer;
- (d) To a Survey Officer, from orders passed by an Assistant Survey Officer:

Provided that no appeal shall lie against the following orders:—

- (i) Orders of an Assistant Settlement Officer or Assistant Survey Officer under section 21 and 22;
- (ii) Orders of a Survey Officer or Settlement Officer;
 - (1) Under Section 21, 22, and 24;
 - (2) Apportioning the expense of erecting and repairing boundary-marks in accordance with rules made under section 27;
- (iii) Orders of a Survey Officer, Settlement Officer or Deputy Commissioner, original or appellate imposing or confirming a fine not exceeding fifty rupees;
- (iv) Orders of a Deputy Commissioner under section 79 setting aside or refusing to set aside the sale;
- (v) Any decision given in accordance with an award of arbitrators appointed under section 143, except in the case of fraud or collusion;
- (vi) Orders under section 148, admitting an appeal after the period of limitation has expired;
- (vii) Orders expressly declared by this Regulation to be final subject to the provision of section 151.

Limitation of appeal

148.(1) Unless otherwise specially provided in this Regulation, or in rules issued under this Regulation, —

(a) No appeal under section 147, clause (a) shall lie after the expiration of 2 months from the date of the order appealed against;

(b) No appeal under same section, clause (b), (c) and (d) shall lie after the expiration of thirty days from the date of the order appealed against.

(2) In computing the period prescribed for an appeal by this section, the day on which the order appealed against was passed and the time requisite for obtaining a copy of such order, shall be excluded.

(3) An appeal may be admitted after the period of limitation prescribed therefor by this section whom the appellant satisfies the [Board] or officer to whom he appeals that he had sufficient cause for not presenting the appeal within that period.

Note – In order to enable the appellate authority to calculate the time to be deducted under clause (2) of this section from the period allowed by law for an appeal, the Presiding Officer of the Court whose order is appealed against would certify on the back of the copy of the order appealed against, the date on which the copy was applied for and the rate on which it was granted.

Procedure of Appellate Court on appeal

149. The [Board] or officer to whom the appeal lies may reject the appeal without hearing the respondent (if any); if it or he, as the case may be, admits the appeal it or he may reverse, modify or confirm the order appealed against, it or he may direct such further investigation to be made or such additional evidence to be taken as is or he may think necessary, or it or he may itself or himself as the case may be, take such additional evidence.

(1) Note – In cases of appeals against orders under Chapter IV, the appellate authority should fill in the final order in the appropriate form (i.e., form No. 9 of the Assam Schedule XVII – Part I) when registration is allowed by it by reversing or modifying the orders appealed against,

Suspension of order appealed against

150. (Inserted by Assam Act XXII of 1962) In any case in which an appeal is admitted the Appellate Court may, if it thinks fit, pending the result of the appeal, direct the order appealed against to be suspended.

Power to call for proceedings of subordinate officers

151. The Board, a Deputy Commissioner, a Settlement Officer and a Survey Officer may call for the proceedings held by any officer subordinate to it or him, and pass such orders thereon as it or he thinks fit.

Note – An order once passed in any case cannot be revised either by the officer who passed it or by his successor in office. But this order does not apply to summary registration orders.

Power of make rules

152. The [(Substituted for the word “Provincial” by the Adaptation of Laws Order 1950) State] Government may make rules consistent with this Regulation, to regulate the procedure of officers in the discharge of any duty imposed on them by or under this Regulation, and may by such rule confer upon any officer any power exercised by a Civil Court in the trial of suits.

Note – For the rules framed under sections 129, 152 and 155 (b) and (c) see Part II. These rules, which have the force of law, have been supplemented by certain executive orders which will be found in Part X of this Manual.

CHAPTER IX
MISCELLANEOUS

Proceedings under this Regulation, un-affected by mistake midscription or irregularity

153.(1) No proceedings under this Regulation shall be affected by reason of any mistake in the name of any person thereby rendered liable to pay any sum of money, or in the description of any estate in respect of which he is rendered liable to pay, or by reason of any other informality: Provided that the provisions of this Regulation, and of the rules passed under this Regulation have been substantially complied with.

(2) No proceedings under this Regulation shall be affected by reason of any irregularity or omission in the publication or service of any notice or proclamation thereunder, unless it is proved that some material injury was caused by such irregularity or omission.

Boards Power to hear pending proceedings

153.A. (New section inserted by section 22 of Assam XXII of 1962) Any proceeding under the Regulation pending before the Commissioner immediately before the date of commencement of (this (Assam Act XXII of 1962, came into force with effect from 15th February, 1963 by Government Notification No. RSS.115/62/P/3, dated 8th February, 1963) Act) shall be deemed to have been instituted before the Board, and shall be decided as if it were duly instituted before the Board.

Matters exempted from cognisance of Civil Court

154.(1) Except when otherwise expressly provided in this Regulation, or in rules issued under this Regulation, no Civil Court shall exercise jurisdiction in any of the following:—

(a) Questions as to the validity or effect of any settlement, or as to whether the conditions of any settlement are still in force;

(b) Questions as to the amount of revenue tax, cess, or rate to be assessed; and the mode, or principle of assessment;

(c) The formation of the record-of-rights, or the preparation, signing, or alteration of any document contained therein;

(d) Claims of persons to perfect partition;

(e) Claims of persons to imperfect partition except in cases in which a perfect partition could not be claimed from, and been refused by, the revenue authorities on the ground that the result of such partition would be to form a separate estate liable for an annual amount of revenue less than five rupees.

(f) The distribution of the land or allotment of the revenue on partition;

(g) Claims connected with, or arising out of the collection of land revenue, or any process for the recovery of an arrear of land revenue or any other enactment for the time being in force, realisable as an arrear of land revenue;

(h) Claims to occupy or resort to lands under sections 13 and 14, and disputes as to the use and enjoyment of such lands between persons permitted to occupy or resort to the same;

(i) Claims to have an allotment made under section 13 or section 14, and objection to the making of such allotment;

(j) Claims to a remission or refund of any revenue, cess tax, rate fee, or fine payable or paid under this Regulation or liable under any enactment for the time being in force as an arrear of land revenue;

(k) Claims to set aside a decision passed in accordance with an award or arbitrators;

(l) Claims to any office connected with the revenue administration or to any emolument appertaining to such office, or in respect of any injury caused by exclusion, suspension or removal therefrom; and

(m) Any matter respecting which an order expressly declared by this Regulation to be final, subject to the provisions of section 151, has been passed.

(n) Any matter regarding ejectment of any person from a land over which no person has accrued the right of a proprietor, landholder or Settlementholder and the disposal of any crop raised, or any building or other construction erected without authority on such land.

(2) In all the above cases jurisdiction shall rest with the revenue authorities only.

(3) Notwithstanding anything in section 265 (Inserted as Section 154-A. by Assam Act XXIX of 1971) or section 396 of the code of Civil Procedure, a Civil Court may, in the case of claim for an imperfect partition with respect to which its jurisdiction is not barred by this section, exercise the same powers in making the partition of a revenue-paying estate as it is competent to exercise in making the partition of a revenue-free estate.

(4) When a Civil Court has made an imperfect partition of a revenue-paying estate the amount of revenue for which each portion of the divided estate is, as between that portion and the other portions to be liable shall be determined by the Deputy Commissioner in the same manner as if the partition had been carried out by himself under Chapter VI of this Regulation.

154A. [Now section 54 of the Code Civil Procedure, 1908 (Act V of 1908)] (1) Notwithstanding anything contained in any judgement decree or order of any court, any notice served or any action taken or any penalty imposed to any ejectment done under sub-rules (1), (2), (3a) and (3b), (4), (5) and (5a) of rule 18 of the Settlement Rules made under the Regulation shall be and always be deemed to have been validly done.

(2) No suit or other proceeding shall be maintained or continue in any court against the Government or any person or authority for any act done or purported to have been done under sub-rules (1), (2), (3a) and (3b), (4), (5) and (5a) of Rule 18 of the Settlement Rules made under the Regulation.

(3) No court shall enforce any decree or order against the Government or any other person for any action taken or purported to have been taken under sub-rules (1), (2), (3a) and (3b), (4), (5), and (5a) of Rule 18 of the Settlement Rules made under the Regulation.

Note (Note below section 154 has been substituted for the original one, vide correction Slip No.39 to the fifth edition of this Manual) — If a mauzadar lends money to a raiyat to enable him to pay an arrear of revenue and the arrear is then satisfied, the loan is a debt recoverable in the Civil Court, section 154 (g) being no bar to the suit; but if the mauzadar pays the demand without any authority from the raiyat he can only proceed against the raiyat by revenue process, section 154 (g) being a bar to a civil suit.

Ruling — (1) The Civil Court has no jurisdiction to entertain a suit a partition which in essence is an “imperfect partition” of each of four different estates. [Abdul Khaliq Ahmed and others versus Abdul Khaliq Choudhury and others, — I.L.R 23 Cal 514 (February) 1896.

(2) Section 154 of the Assam Land and Revenue Regulation which provides that no Civil Court shall exercise jurisdiction in the distribution of land or allotment of revenue on partition is no bar to any unrecorded co-sharer, who was not allowed to intervend in partition proceeding before the revenue authorities, instituting a suit for a declaration of his title to a share of the estate and for confirmation of possession, when the partition proceedings before the revenue authorities had not yet been completed. [Habiram Das and other versus Hema Naih Sarma and others, – 19 C.W.N. 1068 (May 1915)]

(3) The Civil Court has jurisdiction to partition any specific lands included in a revenue-paying estate provided that a partition of the entire estate is not involved (Rajandra Narain Choudhury versus Satis Choudhury, - I.L.R. 59 car 948 (February 1923)).

(4) Under section 154(i) (e) read with section 96 of the Assam Land and Revenue Regulation, actual partition, perfect or imperfect, of revenue paying properties must be made by the revenue authorities.

But the jurisdiction of the Civil Court to determine the rights of the parties in the property in dispute as well as the shares to which they are entitled has not been taken away by the Regulation in question, and the Civil Court must also decide whether the property is liable to partition or not. [Rnkrya Bibt versus Nazira Bann, I.E.R, 55 Gal, 448 (June 1928)]

Additional power to make rules

155. The [(Substituted for the word "Provincial" by the Adaptation of Laws Order 1950) State] Government may, in addition to the other matters for which they are empowered to the Regulation to make rules, make rules consistent with this Regulation relating to the following matters —

(a) The person by whom, and the time, place, and manner at or in which, anything is to be done for the doing of which provision is made in this Regulation or the rules made thereunder;

(b) The mode in which notices, proclamations, summonses, warrants and other processes issued under this Regulation shall be issued, published, and served, and the fees to be charged for the issue, publication and service of such proceedings;

(c) The costs of all proceedings under this Regulation;

(d) The manner in which representatives shall be appointed to act in matters relating to this Regulation on behalf of any body of settlement-holders or persons entitled to, or with whom it may be desirable to make, a settlement;

(e) The granting of licences to prepare or collect or the farming of the right of preparing or collecting, rubber, lac and other forest produce upon land over which no person has the rights of a proprietor, landholder, or settlement-holder;

(f) The granting of licences, or the farming of the right, to work mines, stones, and lime quarries, salt-wells and oil-well to fish in fisheries proclaimed under section 16, and to carry on goldwashing operations;

(g) The payments in consideration of which, and the conditions on which, such licences or firms may be granted; and

(h) Generally to carry out the provisions of this Regulations.

Penalty for breach of rules

156. (Substituted by Act XXV of 1960) The State Government may, in making any rule under this Regulation, provide that a breach of the rule, in addition to any other consequence which would ensue from such breach, be punishable with fine which may extend to two hundred rupees, or when such breach is a continuing breach, to fifty rupees for each day during which such breach continues, or, on conviction before a Magistrate, with imprisonment which may extend to six months or with fine upto one thousand rupees or with both.

Making and publication on of rules

157.(1) The [(Substituted for the word "Provincial" by the Adaptation a Law Order, 1950) State] Government shall, before making any rules under this Regulation, publish in such manner as may, in their opinion, be sufficient for giving information to persons interested, a draft of the proposed rules, with a notice specifying a date at or after which the draft will be taken into consideration; and shall, before making the

rules, receive and consider any objection or any suggestion which may be made by any person with respect to the draft before the date so specified.

(2) If, on such consideration of the draft, any modification is made, the [(Substituted for the word "Provincial" by the Adaptation a Law Order, 1950) State] Government shall determine whether it is necessary to republish the draft under this section.

(3) Subsection (3) – "In making rules under this Regulation the Chief Commissioner shall act subject to the control of the Governor General in Council" was omitted by section 2 of the Devolution Act XXXVIII of 1920.

(4) All rules made by the [(Substituted for the word "Provincial" by the Adaptation a Law Order, 1950) State] Government under the Regulation shall be published in the official Gazette, and shall thereunder have the force of law.

158. Deleted by Section 19 of Assam Act No. XXII of 1962

Powers exercisable from time to time

159. All powers conferred by this Regulation may be exercised from time to time as occasion requires.

CHAPTER X [Added by the Assam land and Revenue Regulation (Amendment) Act, 1947 (Assam Act XV of 1947)] (of ALRR 1886 as amended)

PROTECTION OF BACKWARD CLASSES

Protection of certain classes

160.(1) Notwithstanding anything hereinbefore contained, the [(Substituted for the word "Provincial" by Adaptation of Law Order, 1950) State] Government may adopt such measures as it deems fit for the protection of these classes who on account of their primitive condition and lack of education or material advantages are incapable of looking after their welfare in so far as such welfare depends upon their having sufficient land for their maintenance.

(2) The [(Substituted for the word "Provincial" by Adaptation of Law Order, 1950) State] Government may, by notification in the Official Gazette, specify the classes of people whom it considers entitled to protection by such measures as aforesaid.

Constitution of compact areas

161. The protective measures may include the constitution of compact areas, in regions predominantly peopled by the classes of people notified under the provisions of sub-section (2) of Section 160, into belts or blocks. The boundaries of the areas so constituted shall as far as possible coincide with mauza boundaries or be otherwise easily distinguishable.

Extension of Chapter X to such Areas

162.(1) The [(Substituted for the word "Provincial" by Adaptation of Law Order, 1950) State] Government may, by notification in the official Gazette, direct that the provisions of this Chapter shall apply to the areas, or any of the areas, constituted into belts or blocks under the provisions of Section 161. On such application, the disposal of land by lease for ordinary cultivation, the nature and extent for rights conveyed by annual or periodic lease, the termination or forfeiture of such rights, the ejection of persons in occupation who have no valid right in the land, the management or letting out in farm of land in certain circumstances by the Deputy Commissioner, and other allied or connected matters shall so far as possible, be Governed by the provisions of this Chapter and the rules made thereunder.

(2) Notwithstanding anything to the contrary in any law, usage, contract or agreement, no person shall acquire or possess by transfer, exchange, lease, agreement or settlement any land in any area or areas constituted into belts or blocks in contravention of the provisions of Sub-section (1):

[Inserted vide the Assam Land & Revenue Regulation (Amendment) Act, 101 (President's Act No. 2 of 1981)] (Provided that nothing contained in this chapter or in the rules made thereunder, shall effect any transfer by way of a mortgage in favour of any nationalised bank, a co-operative Society Registered under the Assam Co-operative Society Act 1949 (Assam Act I of 1950) or such other financing institution as may be approved by the State Government)

(3) (Added by the Assam Land & Revenue Regulation (Amendment) Act, 1264) From and after the commencement of the Assam Land Revenue and Regulation (Amendment) Act, 1964, no document evidencing any transaction for acquisition or possession of any land by way of transfer, exchange, lease agreement or settlement shall be registered under the Indian Registration Act 1908, if it appears to the registering authority that the transaction has been effected in contravention of the provisions of Sub-Section (2).

(4) The [(Substituted for the word "Provincial" by the Adaptation of Law Order, 1920) State] Government may in the like manner, direct that provisions of this chapter shall cease to apply to any area or areas or portions of any area, or areas, to which they have been applied under the provisions of Sub-Section (1).

(5) The application of the provisions of this chapter to any area as aforesaid will not affect:

(a) Land settled for special cultivation or purposes ancillary to special cultivation (including grants made for tea cultivation).

(b) Lakheraj, nisfkherj or special estate settled with non-cultivators for their maintenance, which land or estate and the rights and interests therein shall continue to be governed by the provisions for the forgoing chapters of the Regulation and the rules made thereunder.

Disposal of land for the purposes of cultivation

163. (1) The disposal of land in areas to which the provisions of this chapter apply for this purpose of ordinary cultivation or purposes ancillary thereto, shall be in accordance with such policy and procedure as may be adopted and directed by the State Government,

[(2) In adopting and directing such policy or procedure, the State Government shall take into consideration:

(a) First, the bonafide needs of persons belonging to the classes notified under sub-section (2) of section 160 who are permanently residing in such area from before its constitution under section 161;

(b) Secondly, the bonafide needs of persons belonging to such classes who are temporarily residing in such area from before its constitution, but, who are settlement holders of land within the area, on the date of its constitution, and who are likely to undertake to become permanent residents therein within a reasonable time; and

(c) Thirdly, if the extent of cultivable land available for settlement in belt or block be large enough, the bonafide needs of,

(I) The persons belonging to the other classes of people residing in the belt or block from before the constitution of the belt or block;

(II) The persons belonging to the classes notified under sub-section (2) of section 160, who are living elsewhere in the State] (Substituted for sub-section (2) by the Assam Land and Revenue Regulation Amendment Act 1981 (President's Act No. 2 of 1981).

(3) (Inserted by the Presidents Act No. 2 of 1981) [The policy adopted and directed under sub-section (1) shall also provide that no settlement with the persons belonging to the classes of people mentioned in clause (c) of sub-section (2) shall be made except with the previous approval of the State Government.

Right of settlement holder and land holder

164.(1) A settlement-holder other than a land-holder shall have no right in the land held by him beyond such as are expressed in his settlement lease.

Bar of Acquisition in a belt or block

(2) A land-holder shall have a right of use and occupancy in the land-holder by him subject to any restrictions or modifications prescribed in rules made under this Chapter, and to the provisions of section 9.

(Inserted vide Assam land and Revenue Regulation Amendment Act 1981 (Presidents Act No. 2 of 1981) (Provided that no land-holder shall transfer his land in a belt or block to:—

(a) Any person not belonging to a class of people notified under section 160, or

(b) To any person who is not a permanent resident in that belt or block;

Provided further that no such land-holder shall transfer his land in a belt or block to any person who is a permanent resident in that belt or block who does not belong to a class of people notified under section 160 except with the previous permission of the Deputy Commissioner:

Provided also that in granting such permission the Deputy Commissioner shall have due regard to the interests of persons belonging to the classes notified under that section.)

[164. (A) Notwithstanding anything to the contrary contained in this Act or in any law relating to limitation, no person to whom any land is transferred in a belt or block in contravention of the provisions of this Chapter, shall acquire any right or title in that land by length of possession whether adverse or not] (Inserted vide President Act No. 2 of 1981)

Ejectment and eviction

165.(1) In the case of unsettled land any person, who without authority has encroached upon or occupied it shall be liable to ejectment forthwith.

(2) In the case of annually settled land, persons other than settlement-holders, members of their families and hired servants, if found in occupation there of, shall be liable to ejectment forthwith. The settlement with the settlement-holder shall, unless terminated earlier for infringement of the conditions of the lease, or for any action contrary to or in consistent with the rights conferred on him by the lease, automatically terminate at the end of the period covered by the lease.

(3) (a) In the case of periodically settled land, persons who have entered into occupation without valied authority from the landholder, or whose entry or occupation is or has come about in a manner, inconsistent with the provisions of this chapter, shall be liable to eviction.

(b) Such eviction shall be preceded by service of notice requiring the occupants to vacate the land and to remove all buildings and other constructions erected and crops raised, within a period not exceeding one month from the date of receipt of the notice.

(c) The Deputy Commissioner may after the persons have vacated or have been evicted from the land, take the land under his own management, or may let in farm, for such period as he thinks fit, but shall give the landholder a reasonable opportunity of undertaking in writing that he will do everything in his power to prevent unauthorised occupation by other persons infuture, and of agreeing in writing that on his failure to do so, he will forfeit his rights and status of a landholder in respect of the land. If satisfied with

an undertaking and agreement as aforesaid, the Deputy Commissioner shall accept them, and they shall be deemed to govern the landholders future,

rights and status in respect of the land, and the land shall then be restored to the landholder, If the landholder subsequently contravenes the under taking as aforesaid, or any of the provisions of section 9, he shall be liable to forfeiture of his rights and status in respect of the land, which will then be available for settlement afresh subject to any lawful encumbrances subsisting upon it,

Immunity

166.No suit shall lie against any public servant for anything done by him in good faith under this Chapter.

Ban on jurisdiction

167.No Civil Court shall exercise jurisdiction in any of the matters covered by this Chapter.

Investment of powers

168.The [(Substituted for the word "Provisional" by the Adaptation of Laws Order 1950) State] Government may, by notification in the official Gazette, invest any Revenue Officer with the powers of the Deputy Commissioner under all or any of the provisions of this Chapter within such limits, with such restrictions and for such period as may be specified, and may withdraw from any such officer any of the powers so conferred upon him.

Appeals

169.(1) An appeal shall lie under this Chapter:

(2) To the Deputy Commissioner, from any original order passed by any officer subordinate to him, and

(b) To the (Substituted for the word "Revenue Taibunal" by the Assam Act XXII of 1962) (Board) from any original order passed by a Deputy Commissioner.

(2) Except in regard to orders relating to periodically settled land and an order passed on appeal under subsection (1) clause (a) shall be final.

Revision

(3) In regard to orders relating to periodically settled land an appeal will lie to the (Substituted for the word "Revenue Taibunal" by the Assam Act XXII of 1962) Board from an appellate order of the Deputy Commissioner 170. The [(Substituted for the word "Revenue Taibunal" by the Assam Act XXII of 1962) Board] or the Deputy Commissioner may call for the proceedings held by any officer subordinate to it or him and pass such order thereon as it or he thinks fit.

Rules

171.The [(Substituted for the world "Provincial" by the Adaptation of Law Order, 1950) State] Government may, by notification in the official Gazette, make rules for purposes of carrying out the provisions of this Chapter.

PART I – THE LAND AND REVENUE REGULATION THE SCHEDULE

(See Section 2)

ENACTMENTS REPEALED

Part I – Bengal Regulation

Number and year	Subject	Extent of repeal
XIX, 1793	Non-badshahi lakhiraj grants	The whole.
XXXVII, 1793	Badshahi lakhiraj grants	- Do -
XLVIII, 1793	Quinquennial Register	- Do -
III, 1794	Collection of land revenue; Embezzlement by Tahsildars	- Do -
XV, 1797	Fees	- Do -
VIII, 1800	Pargana Register and Mutations	- Do -
I, 1801	Division of joint estates	- Do -
XI, 1811	Partition	- Do -
V, 1812	Leases by proprietors; Collection of land revenue	- Do -
XV, II	Leases by proprietor; Partition	- Do -
XIX, 1814	Partition	- Do -
II, 1819	Resumption	- Do -
IV, 1821	Assistant Collectors	- Do -
III, 1822	Board of Revenue	- Do -
VII, 1822	Settlement	- Do -
XI, 1822	Sales of land for arrears of revenue	- Do -
IX, 1825	Extending Regulation VII XXX	- Do -
XIII, 1825	Lakhiraj tenures; Kanunoes	- Do -
XIV, 1825	Lakhiraj tenures	- Do -
III, 1828	Special Commissioners	- Do -
VI, 1828	Settlement	- Do -
I, 1829	Commissioners	- Do -
IX, 1833	Settlement; Deputy Collectors	- Do -
Part II – Acts of the Governor General in Council		
Act II, 1835 (Acts II and VI of 1835 were entirely repealed by the Amending Act, 1891 (XII of 1891))	Assam Arracan; Tenasserim	So far as it refers to the Board of Revenue.
Act VI, 1835 (Acts II and VI of 1835 were entirely repealed by the Amending Act, 1891 (XII of 1891))	Khasi Hills and Cachar	- Do -
Act XX, 1836	Partition	The whole
Act XXI, 1836	Zilas	- Do -
Act XI, 1838	Remuneration of Amins effecting Partition	- Do -
Act XII, 1841	Sales of land for arrears of revenue	- Do -
Act IX, 1847	Assessment of land gained by alluvion	- Do -
Act XX, 1848	Attendance before Collector	- Do -
Act XXII, 1850	Defaults of public accountants	- Do -
Act XLIV, 1850	Board of Revenue	- Do -
Act XXXI 1858	Settlement of all uvial lands	- Do -
Act XI, 1859	Sales of land for arrears of revenue	- Do -

Number and year	Subject	Extent of repeal
Part III – Acts of the Lieutenant-Governor of Bengal Council		
Act III, 1862	Amending Act XI of 1859	The whole.
Act VII, 1862	Repealing section 30, Regulation II, 1819	- Do -
Act IV, 1864	Amending Act XXI, 1836	- Do -
Act III, 1868	Amending Regulation VII, 1822	- Do -
Act IV, 1868	Amending Act IX, 1847	- Do -
Act VII, 1868	Amending Act XI, 1859	- Do -
Act II, 1871	Act XI 1859	- Do -
Act VII, 1880	Recovery of Public Demands	- Do -
Part IV – Regulation under 33 Victoria, Chapter 3		
Regulation IV, 1875	Realisation of arrears of revenue in Sylhet and Goalpara	The whole

PART II

RULES UNDER THE REGULATION

PART II

RULES UNDER THE LAND AND REVENUE REGULATION

CHAPTER I

SETTLEMENT RULES

SECTION I

GENERAL PROVISIONS

Definition

[1. (1) All powers of the Deputy Commissioner under these rules shall be exercised subject to any general or special order issued from time to time by the State Government.] (Inserted vide Government Notification No. RSS 351/64/92, dated 18th May 1967)

1. (2) In these rules, unless there is anything repugnant in the subject or context —

(a) Special cultivation means cultivation which involves, either owing to the nature of the crop or owing to the process of cultivation, a much larger expenditure of capital per acre than is incurred by most of the cultivators in the State. Ordinary cultivation means cultivation other than special cultivation.

(b) Waste Land means land at the disposal of the Government, which the Government has not disposed of by lease, grant or otherwise, and which is not included in a forest reserve, or in a forest proposed to be reserved under section 5 of the Assam Forest Regulation, VII of 1891, or in a protected forest constituted under the rules made under the said Regulation, and has not been allotted as a grazing ground under rules framed under section 13 of the Assam Land and Revenue Regulation.

(c) [An Annual Lease means a lease granted for one year only and confers no right in the soil beyond a right of user for the year for which it is given. It confers no right of inheritance beyond the year of issue. It confers no right of transfer or of sub-letting and shall be liable to cancellation for any transfer or subletting even during the year of issue;

Provided that the State Government may waive their right to cancel an annual lease and may allow its renewal automatically till such time as the State Government may direct in those cases in which the land

is mortgaged to Government or to a State-sponsored Co-operative Society.] (Original rule I renumbered as rule I(2) vide Notification No. RSS 351/64/92, dated 18th May 1967)

(d) (Inserted vide Government Notification No. RSS 351/64/92, dated 18th May 1967) [A periodic lease, except in the case of town land, means a lease granted for a period longer than one year, and in the case of town land, a lease for a period longer than three years. Subject to and so far as is consistent with any restrictions, conditions, and limitations contained therein, a periodic lease, the term of which is not less than ten years, conveys to the lessee the rights of a land-holder as defined in the Assam Land and Revenue Regulation.]

(e) The terminal year of a local area means the year up to which the rates of land-revenue shall, according to the orders passed by the State Government at the last settlement of that local area, remain in force.

(f) Settlement in these rules means the leasing of land at the disposal of the Government and includes the operations of survey, classification and report, preliminary to such leasing.

(g) Cost of survey includes cost incurred by the Deputy Commissioner for the pay of the surveyor and of the establishment.

(h) (Added by Notification No. 3004-R dated the 15th October 1935) Timber includes trees when they have fallen or have been felled, and all wood whether cut up or fashioned or hollowed out for any purpose or not.

(i) (Inserted by Notification No. 4764-R dated the 12th November 1940) Tree includes palms, bamboos, stumps, brushwood and canes.

Powers of Deputy Commissioners

2. The disposal of waste land required for ordinary or special cultivation or for building purposes will, vest in the Deputy Commissioner who will dispose of such land by grant, lease or otherwise in the manner and subject to the conditions set forth in the rules following, provided that the Deputy Commissioner may expressly reserve any such land from settlement:

[Provided that no land in any unclassified State Forest containing trees declared as reserved trees under section 32 of the Assam Forest Regulation 1891, shall be settled except with the previous approval of the State Government.]

Note:— For orders regarding the disposal of land left by a settlement-holder dying without heirs, see paragraph 84A of the Assam Executive Manual.

Delegation of powers of Deputy Commissioners

3. (Substituted vide Notification No. RSS. 351/64/92, dated 18th May 1967) [The Deputy Commissioner] may, by general or special order, delegate to any Revenue Officer within the district all or any of the powers conferred by these rules including the power to receive applications for land provided that —

(i) No officer of lower status than a Sub-Deputy Collector shall pass final orders to issue a periodic lease or to grant settlement of land, and provided that Sub-Deputy Collectors may not exercise such powers if the land in question exceeds (Substituted vide Notification No. RSS.351/64/92, dated 18th May 1964) [12 bighas or such other area as may be prescribed by the State Government by general or special order from time to time]

(ii) Delegation of powers under rules 18(1) and (2) may be made only to a Sub-divisional Officer.

All orders passed by a subordinate officer under the provisions of this rule shall be subject to revision by the Deputy Commissioner.

[**Explanation** – For the purpose of this rule, the words “Subdivisional Officer” shall include Subdivisional Officer of a Sadar Subdivision also.] (Substituted vide Notification No.RSS351/64/92, dated 18th May, 1964.)

Settlement Officer

4. When a Settlement Officer has been appointed under section 133 of the Assam Land and Revenue Regulation for any local area or class of estates, he shall exercise the powers of a Deputy Commissioner as conferred by these rules, provided that he shall not settle any land which has been expressly reserved by the Deputy Commissioner from settlement:

(Added vide Notification No.RSS.351/64/92, dated 18th May 1967) [Provided further that the Deputy Commissioner shall continue to exercise the powers under rule 18]

Applications for land

5. Application for leases of waste land shall [Deleted vide Notification No.RSS/351/54/92, dated 18th May 1966] be in writing and shall be presented to the Deputy Commissioner, or to such other Officer as may be empowered by the Deputy Commissioner under rule 3. They shall be made in such form as the State Government may from time to time direct [Inserted vide Notification No. RSS.351/64/92, dated 18th May 1967]

Vide Forms Nos. 125 and 126.

Note:— Deputy Commissioners should indent for a sufficient number of these forms for sale by the Revenue Nazir – (a) To the public and (b) to the stamp vendors for retail sale to the public.

Measurement and classification of land

6. On receipt of an application for land not exceeding 50 bighas in area, the Deputy Commissioner or other officer empowered in this behalf shall, in surveyed areas, unless he sees reason to reject the application summarily, cause the land applied for to be shown on the cadastral map. In unsurveyed areas maps shall be prepared in such cases or class of cases as the Deputy Commissioner may, by general or special order, direct. The land records staff shall at the same time report briefly (Inserted vide Notification No. RSS.351/64/92, dated 18th May 1967) [Whether the applicant is a person belonging to any of the categories mentioned in rule 8 and] whether the land is available for settlement and suitable for the purpose mentioned in the application, and what rates of revenue are applicable to the land under the general or special orders of the State Government, or, if no such orders apply to the land in question, what rates of revenue will be suitable having regard to the rates prevailing in the neighbourhood for land of the same class. Appeals against wrong measurements, classification, or assessment of land revenue will lie as provided by section 147 of Assam Land and Revenue Regulation, provided that no appeal shall be entertained after the close of the agricultural year in which the measurement, classification, or assessment of the land was made.

Survey of land

7. When no land records staff is maintained the Deputy Commissioner will cause the survey to be done, and the report required by rule 6 to be submitted, by such other agency as may be available.

Disposal of application

8. (Substituted vide Govt. Notification No.RSS.351/65/92. dated 18th May 1967) [After perusing the report and the map and making such further investigation as may seem necessary and settling any dispute that may have arisen the Deputy Commissioner or other officer empowered in this behalf shall either reject the application or grant a lease or allow it in part.

Priority of application

In granting lease, the Deputy Commissioner shall take the following into consideration:—

(i) Settlement for agricultural purpose of lands available in compact blocks of 50 bighas or more will be made ordinarily with registered Co-operative farming societies of actual landless cultivators;

(ii) When settlement has to be given to individuals, the area should ordinarily be limited to 8 bighas to 12 bighas per family according to the fertility of the soil. In giving settlement to individuals, preference shall be given in the following order:—

(a) Settlement holders who have been rendered landless due to flood, erosion or earthquake or due to requisition or acquisition of their land by Government for public purposes.

(b) Landless cultivators and displaced persons from Pakistan who are landless cultivators;

(c) Cultivators having less than 8 bighas of land.

Note – (1) A person who holds lands less than 8 bighas in his name or in the name of any member of his family shall be eligible to set settlement of only so much of land as shall, together with his existing holding, not exceed 8 or 12 bighas, as the case may be.

(2) The size of the family should also be taken into consideration in giving preference as also in determining the area to be settled with persons of the same category.]

Priority and Application

9. Should more than one person apply for the same land, the applications which have been made first shall ordinarily be granted, but the Deputy Commissioner, for reasons to be recorded, may grant any subsequent application and reject the first.

Procedure on applications for land exceeding 50 bighas

10. When the area of the land applied for is more than 50 bighas, the survey, classification and assessment of the land shall be made by or under the control of an officer not lower in rank than a Sub-Deputy Collector who shall submit to the Deputy Commissioner a report on the proceedings. In areas which have been surveyed the boundaries of the land applied for may be shown on the map. The report shall be in such form as the State Government shall direct, and in the case of subdivisions shall be submitted through the Sub-divisional Officer.

Limit of area

11. The Deputy Commissioner after perusal of the report shall pass such orders as he thinks fit: Provided that in the case of settlement of land exceeding 400 (Substituted for the word “acres” vide Notification No.SS.351/64/92. dated 18th May 1967) bighas in area he shall submit his proceedings to the (Substituted for the word “Commissioner” vide Notification No.RSS.351/64/92) State Government for confirmation. (Deletec vide Notification No. RSS351/64/92, dated 18th May, 1967)

Survey fees

12. When the area of the land applied for exceeds 50 bighas, the applicant shall deposit survey fees at the rate of (Substituted for the word “two annas”) fifty paise a bigha: Provided that survey fees need not be levied when the land applied for is included in one or more entire cadastral dags.

Conversion of annual lease into periodic lease

13. The Deputy Commissioner or other officer specially empowered in this behalf may convert an annual lease into a periodic lease in accordance with such instructions as may be issued from time to time for his guidance by the State Government (Deleted by Notification No. RSS.508/38, dated 5th 1961)
- 13A. (Inserted by Notification No. RSS 320/53/56. dated 23rd April 1058) Notwithstanding anything in these rules or any order made thereunder, the State Government may, by general or special order, direct that wherever a periodic lease is granted or an annual lease is converted into periodic, it shall be subject to the payment of premium at such rate as may be fixed by the State Government.

Settlement of land for non-agricultural purposes

(Added vide Notification No. RSS.351/64/92, dated 18th May 1067) [Provided that settlement of land on periodics basis or conversion of annual land to periodic for purposes other than agricultural shall be made only with the prior approval of the State Government and subject to payment of premium at such rates as may be fixed by the State Government from time to time]

Term of periodic leases for ordinary cultivation

14. In granting periodic leases for ordinary cultivation, or in converting annual leases into periodic leases for ordinary cultivation, the Deputy Commissioner shall so fix the period that it will expire concurrently with the general settlement of the district or of the local area or the class of estates to which the land belongs.

Settlement of occupied lands not included in say lease

15. (Substituted vide Notification No. RSS.351/64/92, dated 18th May 1967) [No person shall have any right to settlement merely because he is in occupation of land not included in any lease granted by the State Government either to himself or to any other person].

(Deleted vide Notification No. RSS.351/64/92, dated 18th May 1967.)

Prohibition to enter into land until issue of lease

16. (Substituted vide Notification No. RSS. 351/64/92, dated 18th May 1967) [Lease shall be issued on written application only, and no person shall enter into possession of waste land in any area until a lease has been issued to him or otherwise a written permission by Deputy Commissioner has been granted to him, pending issue of such lease, to enter into possession.

Liability to pay revenue

17. If the occupant to whom settlement is offered accepts it, he shall be liable for the revenue assessed on the land from the commencement of the year in which he first occupied it. If the occupant refuses the settlement offered to him, settlement may be offered to any other person from the commencement of the year succeeding that in which the occupation was discovered, and the actual occupation, notwithstanding his refusal to accept settlement, shall, from the commencement of the year in which he first occupied the land, be held liable for the revenue assessed on it.

- [17A. The Deputy Commissioner may at any time on application or of his own motion, assess increment of grant reduction in the revenue in proportion to the change in area of the lease as a result of gain by alluvion or by dereliction of a river, or loss by diluvion, during the currency of the settlement:

Provided that no such revision of the revenue and area of the lease shall be made until the parties concerned had been given reasonable opportunity of being heard.] (Inserted vide Notification No. RSS. 351/64/92, dated 18th May 1967)

Ejectment

18. (1) Subject as hereinafter provided, the Deputy Commissioner may eject any person from land over which no person has acquired the rights of a proprietor, landholder, or settlement-holder.

(2) When such person has entered into possession of land that has previously been reserved roads or roadside land or for the grazing of village cattle or for other public purposes, or has entered into possession of land from which he has been excluded by general or special orders and when further, there is no bona fide claim of right involved he may be ejected or ordered to vacate the land forthwith, and the Deputy Commissioner may sell, confiscate or destroy any crop raised, or any building or other construction created without authority on the land.

(3) (a) (Substituted by Notification No. RSS. 508/59/38, dated 5th May 1961) In all other cases ejectment shall be preceded by publication of a notice in the manner prescribed before requiring the occupant generally to vacate the land specified in the notice, within 15 days of the date of publication of the notice on the land concerned or in a prominent place in the vicinity thereof, and to remove any buildings, houses, fences or crops, etc., which may have been raised on such land, provided that the Deputy Commissioner may give time to any particular occupant to harvest the crops, if any growing on such land. Any buildings, houses, fences, crops, etc., which have not been removed in accordance with such notice shall be confiscated to the Government.

(3) (b) The notice referred to in clause (a) of sub-rule (3) above shall be published by affixing a copy thereof in the Notice Board of the office of the Deputy Commissioner or the Sub-Divisional Officer, as the case may be, and also in the Notice Board of the office of the Sub-Deputy Collector within whose jurisdiction the land is situated. A notice shall also be published by affixing a copy thereof on the land concerned or in a prominent place in the vicinity thereof.

(4) Any person or persons required by notice to vacate under the last preceding sub rule the land which the person or persons occupy, shall comply with the requisition within the time prescribed in the notice, running from the date of its service.

(5) Any person or persons intentionally disobeying an order or requisition to vacate under sub-rule (2) or (3) shall be liable to a penalty which may extend to two hundred rupees, and, in case such disobedience is continued to a further penalty which may extend to fifty rupees for each day during which such breach continues.

(5) (a) (Added by Notification No. RSS. 508/59/39, dated 5th May 1961) Any person who having been once evicted under sub-rule (2) or sub-rule (3) from any land encroaches on any land over which no person has acquired the right of a proprietor, land-holder or settlement holder, shall on conviction before a Magistrate, be liable to imprisonment which may extend to six months or fine which may extend to one thousand rupees or both.

(6) (Added by Notification No. 3462-R., dated the 10th November 1931) Nothing in sub-rule (3) of this rule shall apply to any person who has refused an offer of settlement in respect of the land of which he is in possession. (Deleted by Notification No. RSS. 508/59/38, dated 5th May 1961)

Land revenue and minimum assessment

19. The land-revenue payable on account of any lease shall be determined by such general orders regarding the assessment of land-revenue as may have been issued by the State Government when confirming the last Settlement of the local area or class of estates in question. Where no such general orders exist, the special orders of the State Government shall be taken.

(Substituted vide Notification No. RSS. 351/64/92, dated 18th May 1967) [Provided that the minimum assessment of an estate shall be one rupee.]

Fraction in assessment

20. In fixing the total demand on an estate fractions of a paisa shall not be taken into account. Any fractions of a paisa less than half paisa shall be neglected; half a paisa or more shall be counted as a whole paisa if the assessment of an estate amounts to one hundred rupees or more, any fraction of a rupee less than fifty paisa shall be omitted and fifty paisa or more shall be treated as one rupee.

Royalty on timber

21. The following provisions shall apply to case of all leases for ordinary cultivation:—

(a) No royalty shall be payable on any forest produce except timber (Substituted vide Notification No. RSS. 351/64/92, dated 18th May 1967) [sold, bartered, mortgaged, given or otherwise transferred or removed for transfer]. The Timber (Substituted vide Notification No. RSS. 351/64/92, dated 18th May 1967) [sold, bartered, mortgaged, given or otherwise transferred or removed for transfer] shall be liable to the full royalty under the rule relating to Unclassed State Forests.

(b) Before a lease is granted the applicant may (and shall if, for special reasons to be recorded, the Deputy Commissioner so require) clear his liability for royalty upon all timber afterwards (Substituted for the words “sold or removed for sale” vide Notification. No. 1449 R, dated the 20th March 1940, Sett./508 of 1940) [sold, bartered, mortgaged, given or otherwise transferred or removed for transfer] by the pre-payment of a sum representing the full royalty on all trees which are likely to be (Substituted for the words “sold or removed for sale” vide Notification No. 1449 R, dated the 20th March 1940, Sett./508 of 1940) [sold, bartered, mortgaged, given or otherwise transferred or removed for transfer]. The sum to be so paid shall be estimated by the Deputy Commissioner either on the basis of rate per bigha, or in such other manner as may be fair and equitable. The estimate of the Deputy Commissioner shall be final. The pre-payment shall be made either in one instalment or in such series of instalments as the Deputy Commissioner may, by general or special order, determine.

(c) At any time during the pendency of a lease the lessee may in the manner set forth in clause (b) clear his liability in respect of all trees still standing on the land.

(d) Notwithstanding anything contained in the preceding clauses, trees which were planted, or began to grow, on the land during the pendency of a lease shall be exempted from all payment of royalty even if (Substituted for the words “sold or removed for sale” vide Notification. No. 1449 R, dated the 20th March 1940, Sett./508 of 1940) [sold, bartered, mortgaged, given or otherwise transferred or removed for transfer]. When land has been settled continuously for twenty years all trees standing thereon shall be presumed to have been planted, or to have begun to grow, during the pendency of the lease.

(e) If no trees other than trees exempted under clause (d) are standing upon the land of a lessee, he may at any time apply to the Deputy Commissioner for an endorsement to this effect upon his lease, and the Deputy Commissioner, after ascertaining that the allegation is correct, shall make such endorsement free of charge.

(f) Subject to the payment of such royalty, if any, as is due under clauses (a), (b) or (c) of this rule, the holder of a periodic or annual patta shall be entitled to cut down or sell any tree standing on the land covered by his lease provided that the holder of an annual patta shall not be entitled to cut down or lop branches from trees of such classes and within such areas as may be notified in this behalf by the State Government.

Note (Inserted by C.S. No. 34 to the fifth edition of this Manual) – 1. The words “notified in this behalf by the State Government” in rule 21 (f) refer only to notifications issued from time to time under this rule and not to other notifications issued by the State Government.

Note – 2. Leases for land settled with persons carrying on special cultivation for allotment to the labour force under their control for ordinary cultivation shall for the purpose of timber valuation be governed by rule 37 to 39.

Refund of value of timber or resignation of a grant

22. In any case in which settlement holder has paid royalty for timber standing on his estate he may, in case he hereafter resigns the whole or any portion of his estate, be granted a refund of the value of the timber of trees standing thereon subject to the following provisions. —

(i) Where the area resigned is a compact area of 250 acres or upwards the settlement-holder shall be entitled to a refund, in respect of all unused timber, of the royalty paid at the time of settlement.

(ii) Where the area resigned is not a compact area of 250 acres, refund of the royalty paid at the time of settlement in respect of all unused timber may be made at the discretion of the Commissioner.

(iii) Where a settlement holder resigns land on which valuable trees have been planted subsequent to settlement, a fair valuation of the trees standing on the land may be paid to the settlement holder at the discretion of the State Government.

(iv) When a refund is claimed under clause (i) or (ii) it shall be for the settlement-holder to prove the amount of royalty paid at the time of settlement in respect of the area resigned. The Deputy Commissioner shall cause a Forest Officer to estimate what proportion the value of the standing trees bears to the value of trees of the time of settlement, and the amount of the refund shall bear the same proportion to the amount of royalty paid at the time of settlement: Provided that the Commissioner may at his discretion authorise a Forest Officer to assess the timber at its present market value in situ, in cases where it is not possible to prove the amount of royalty paid in respect of the area resigned.

Road side land

23. (1) Nothing in these rules shall entitle any person to obtain a lease in respect of land within 75 feet of the centre line of a public road. Any person occupying or encroaching on such land shall be liable to ejection under Rule 18 of the Rules.

Explanation – The expression “public road” includes (I) any road maintained by the State Government or by a local authority and (II) any other road declared by the State Government to be a public road for the purpose of this rule.

(2) Except under the general or special order of the State Government, no new periodic lease shall be issued in respect of land within one chain (66 Feet) of the 75 feet reservation from the centre line of the road maintained by the State Government.

Note – This rule applies to existing and not to projected roads. It is, however, open to the Public Works Department to apply to the Deputy Commissioner to utilise his powers under rule 2 so as to reserve from settlement otherwise than on annual lease land lying within 141 feet from the centre line of a projected road.

Resignation

24. [If any settlement holder wishes to relinquish the whole of his estate, or any entire fields (dags) within his estate he shall, after paying all the land revenue due from him in respect of the estate or fields proposed to be relinquished, tender a written petition to the Deputy Commissioner or other officer empowered in this behalf. The latest date for filing such petition shall be the 15th February. If the latest date falls on a Gazetted holiday, petitions for relinquishment may be tendered on the first opening day after such holiday.]

Settlement of land previously resigned

25. Notwithstanding anything contained in these rules, if it be proved that the applicant for, or occupant of, any land relinquished during the previous year, the settlement, if any with him shall be on an annual lease and he shall be liable to be assessed on such land at 50 per cent, above the rates at which he would

otherwise have been assessed. On expiry of such annual lease, resettlement shall be made with the settlement-holder if he desires it, at the ordinary rates, and under the ordinary rules.

Confirmation and cancellation of settlements

26. Subject to the general control of the State Government, the Commissioner shall have power to confirm all settlements, and also to cancel any settlement made in contravention of these rules, (Added vide Notification No. RSS. 351/64/92, Dated 18th May 1967) [after giving the lease-holder an opportunity of being heard.]

Settlement of town lands

27. (Substituted vide Notification No. RSS. 351/64/92, Dated 18th May 1967) [Non-application of these rules to town land-Unless otherwise directed by the State Government, nothing in these rules shall apply to the land included in a military cantonment. The State Government may, from time to time, prescribe special rules for the settlement of land within two miles of a military cantonment or a municipality, or within half a mile of a small town notified under the Assam Municipal Act, 1956, or a town land declared under, under the Assam Land Revenue Reassessment Act 1936 or the Assam Land and Revenue Regulation 1886. But unless and until such rules have been prescribed, the settlement of such land shall be effected under the foregoing rules, provided that no periodic lease shall be issued for such land except where it has, or is likely to have, no non-agricultural value].
28. (Substituted vide Notification No. RSS, 351/64/92, Dated 18th May 1967) [Land within two miles of a military cantonment or a municipality or within half a mile of a small town notified under the Assam Municipal Act, 1956, or town-land area declared under the Asam Land Revenue Re-assessment Act, 1936, or the Assam Land and Revenue Regulation 1886, may be settled on periodic lease for purpose other than agricultural on such terms as may be approved by the State Government.]

SECTION II

Special provisions relating to applications for special cultivation

29. The following additional rules shall apply only to applications for waste land for special cultivation.

Applications to be in writing

30. Leases for special cultivation will be issued on written application only.

Lands which may not be leased under this Section

31. (1) Ordinarily, waste land of the following description shall not be leased under this Section without the special sanction of the State Government.
- (a) Land in forests reserved, or proposed to be reserved, under section 5 of the Assam Forest Regulation VII of 1819, and land in unclassed forests containing [trees declared as reaserved trees under Section 32 of the Assam Forest Regulation 1891]
 - (b) Land specially valuable for grazing or for the supply of fuel and other forest produce;
 - (c) Land known or supposed to contain valuable minerals;
 - (d) Land claimed by wild tribes, or over which the inhabitants of neighbouring villages claim special privileges.
- (2) The Deputy Commissioner shall refer all applications received for special cultivation to the Divisional Forest Officer for report on (1) (a) (b) above.

Note – When examining an application referred to him under this rule, a Forest Officer should consider whether the timber on the land or any part of it can be advantageously disposed of under rule 39.

Land applied for to be compact

32. If the area applied for exceeds 50 acres, it must be compact and such as might be enclosed within a ring fence. If the land touches a public road or navigable river, the length of the road or river, frontage must not exceed one-half the depth of the area applied for; but if for any special reasons the State Government see fit to relax this restriction they may do so.

Deposit of cost of survey and of demarcation of boundaries

33. If the area applied for exceeds 50 acres, the applicant shall at the time of presenting his application deposit a sum to cover cost of survey at the rate of (Substitute vide Notification No. RSS. 351/64/92, Dated 18th May 1967) [three rupees] per acre when the survey is to be carried out by a Government officer and at (Substitute vide Notification No. RSS.351/64/92, Dated 18th May 1967) [two rupees] per acre when it is effected by an approved private surveyor. This sum shall be calculated on the area as estimated by the applicant. In cases in which the area applied for exceeds 10,000 acres if the State Government are satisfied that the charge so calculated is seriously in excess of the actual cost of survey, they may refund so much of the deposit as seems, to them to be excessive.

The Deputy Commissioner shall ascertain from the applicant whether he desires to clear and demarcate the boundaries himself prior to survey; if so, he may be permitted to do so in the manner required by the Deputy Commissioner. If the Deputy Commissioner undertakes the clearing and preliminary demarcation of boundaries on behalf of the applicant, the applicant shall deposit, in addition to the cost of survey, the cost of clearing and demarcation as estimated by the Deputy Commissioner and shall point out the boundaries to the surveyor.

On the failure of the applicant to make the deposits required by this rule within one month of the date of application, or to point out the boundaries to the surveyor after due notice, or to clear or demarcate the boundaries if he elects to do so, the application, in the absence of good cause shown within a time to be fixed by the Deputy Commissioner, shall be rejected.

Note – If at any stage of the proceedings there is any unreasonable delay on the part of the applicant in answering enquiries or signing maps or leases, the application should be struck off after due warning has been given to the applicant in writing.

Survey of land

34. After deposit of cost of survey and demarcation under rule 33, the Deputy Commissioner shall cause the land to be surveyed, and a map prepared on the scale of 16 inches to the mile or on such other scale as the State Government may for special reasons direct in any case or class of cases.

Boundary marks

35. During the progress of the survey the surveyor shall erect permanent boundary marks at all boundary angles and at intervals of twenty chains or less along all boundary lines not marked by clearly defined natural features. In no circumstances shall a waste land lease be issued, or possession given to the applicant, until the map has been prepared and the boundary marks have been reported by the surveyor to have been erected as required by this rule.

By whom survey to be made

36. The surveyor appointed to survey lands under rule 33 shall not be below the rank of a Sub-Deputy Collector, or a person declared by the State Government to be an approved surveyor, or a person certified by the Director of Surveys to be qualified for the survey of such land. The Director of surveys will take such steps as he considers necessary to check the work done and will countersign all maps of areas

of 50 acres and over which have not been prepared by the ordinary district staff, before they are finally submitted to the Deputy Commissioner for his acceptance.

All areas of 50 acres and over must be surveyed on a theodolite traverse basis.

Valuation of timber

37. The Deputy Commissioner, shall, as soon as possible after an application has been filed under this Section and admitted by him, cause a Forest Officer to make an estimate of the [full royalty valuation] of the trees on the land applied for.

The Forest Officer shall submit his valuation if the royalty at full rate would not exceed Rs 1,000 to the Deputy Commissioner, and the Deputy Commissioner, if he does not approve of it, may refer the matter to the Conservator, whose decision shall, subject to the orders of the State Government be final, If the royalty at full rates would exceed Rs 1,000, the Forest Officer shall before sending his valuations to the Deputy Commissioner, submit it for confirmation to the Conservator, who may reduce it up to a maximum of 50 per cent, if he considers that it is too high, having regard to the inaccessibility of the timber to a market or to any other consideration. Should the Conservator consider that a larger reduction is called for than 50 per cent on the Forest Officer's valuation, he will report the case to the State Government for sanction to such reduction. If the applicant is dissatisfied with the valuation fixed by the Conservator he may appeal to the State Government. (Deleted vide Notification No. RSS. 351/64/92, dated 18th May 1967)

38. (Substituted vide Notification No. RSS. 351/64/92, dated 18th May 1967) [In special cases, payment of the value of timber on the land may be postponed for such time and under such conditions as the State Government may decide.]

Prior disposal of timber

39. Nothing in these rules shall prevent the Deputy Commissioner from disposing of the timber or any part of it on the land applied for before settlement is completed. Any such disposal of the timber shall be arranged as soon as possible after the receipt of the report of the Divisional Forest Officer under rule 31(2), and a definite period not exceeding two years shall be fixed within which the timber disposed of shall be removed. If and when timber is so disposed of by the Deputy Commissioner, the valuation of the remaining timber shall be made as soon as possible, provided also that the lessee shall be given the right of entering for the purpose of commencing cultivation, previous to such valuation being completed, if he so desires.

Liability to payment of premium

40. In addition to the land-revenue payable under rule 17 and the value of the timber assessed under rule 37, an applicant to whom a lease for special cultivation is granted shall be liable to pay premium (Deleted vide Notification No. 3052-R., dated the 24th September 1931). The rate of premium shall be fixed by the State Government from time to time for each locality. The premium (Added by the Notification No. RSS.329/53/56 Dated 23rd April 1958) shall be payable on or before the date of the issue of the lease unless the State Government otherwise direct.

Premium on land taken up for ordinary cultivation found to be cultivated with tea

- 40A. The settlement-holder of any land taken up for ordinary cultivation after the date of publication of Notification No. 3052-R., dated the 24th September 1931, in the Assam Gazette, and found to be under special cultivation, shall be liable to pay premium at the rate fixed by the State Government for that locality. Premium shall be payable immediately and without reference (Substituted vide Notification No. R. 555/64/92, dated 18 May 1967) to the period of settlement mentioned in the rule 45.

41. (Deleted vide Notification No. RSS 351/64/92, dated 18th May 1967)

Payment of revenue

42. Full revenue shall be due on the whole area from the commencement of the agricultural year in which the lease was signed, or any portion of the land occupied, whichever is earlier.

No right of transfer in certain cases

43. When any person obtains a lease for special cultivation wholly or partly free of premium it shall be a special condition thereof (in consideration of the area settled free of premium) that he shall not transfer the estate or any portion thereof by gift, sale, exchange, usufructuary mortgage, or sub-lease, or in any other manner whatsoever within 10 years of the date of issue of the lease, except with the previous consent in writing of the Deputy Commissioner and upon such terms as the Deputy Commissioner may prescribe; and any transfer made without such consent shall be null and void:

Provided that the Deputy Commissioner shall not withhold his consent in any case in which the applicant pays the full premium together with any suspended revenue due in respect of the area transferred.

Unpaid premium and suspended revenue when due

44. Notwithstanding anything hereinbefore contained —

(i) If the estate falls into arrears on account of land revenue or local rate, or any part of it is relinquished, or

(ii) If in the opinion of the Deputy Commissioner reasonable progress is not being made in development of the grant, the whole of the suspended premium and the suspended revenue if any, shall be payable immediately, and may be recovered as an arrear of land revenue

Right of a lessee

45. Subject to the special conditions laid down, a lease for special cultivation shall confer a permanent heritable and transferable right. The term of the lease shall be 15 years after which the holder shall be entitled to settlement on a periodic Khiraj lease for special cultivation at the rates then current in the district.

Reservations between adjoining grants

46. In the case of all leases of land exceeding 50 acres and not exceeding 600 acres granted under these rules, the Deputy Commissioner shall reserve from settlement (a) any land which in his opinion is required for public passage and (b) a strip of land at least 100 feet wide between the new grant and adjoining grants (if any).

In the case of lease of land exceeding 600 acres, the Deputy Commissioner shall, in addition, divide the land into convenient blocks and reserve similar strips between each pair of adjoining blocks.

If in any particular instance the Deputy Commissioner is unable to follow this rule, he shall report the departure together with his reasons to the Commissioner, who may pass such orders as he thinks fit.

Provided that if at any time it appears to the Commissioner that the continuance of any reservation made under this rule, excepting those over which the public have acquired a right-of-way, is unnecessary, he may cancel such reservation and settle the land over which the reservation was made in such manner either by exchange with land already settled, or other wise, as may appear to him desirable.

Register of applications

47. A register shall be kept by the Deputy Commissioner of all applications for lease of waste lands for special cultivation.

SECTION III (This is new Section introduced by Notification N. 44-R, dated the 4th January 1940, in substitution of the odd Section.)

[SETTLEMENT OPERATION]

ASSESSMENT OF LAND (Reference should also be made to the Assam Land Revenue Reassessment Act (VIII of 1936) and the rules thereunder) AND RECORD OF RIGHTS

Definitions

48. In this Section of the rules unless there is something repugnant in the subject or context —
- (a) The settlement of a local area or class of estates means a special operation carried out under the provisions of Section 17-42 of the Regulation for the formal revision of the land-revenue demand of that area or area or class of estates.
 - (b) The terminal year means the year up to which the rates of land-revenue shall, according to the order passed by the State Government at the last settlement, remain in force.
 - (c) All other expression used in this Section of the rules shall have the same meaning as in the Assam Land and Revenue Regulation and in Sections I and II of this Chapter of the rules.
49. (Omitted by Notification No. 44-R., dated the 4th January 1940) (Omitted)

Appointment of Settlement and Survey Officers

50. When the State Government have declared that a local area or class of estates in under settlement they may, for the purpose of carrying out the operations, appoint under section 133 of the Regulation a Settlement Officer and one or more Assistant Settlement Officers; and also under section 134 of the Regulation a Survey Officer and one or more Assistant Survey Officers; provided that the same officer may be vested with the powers of a Settlement Officer and a Survey Officer or with the powers of an Assistant Settlement Officer and an Assistant Survey Officer
51. (Omitted by Notification No. 44-R., dated the 4th January 1940) (Omitted)

Term of Assessment

52. The term for which the land-revenue is to be assessed shall, subject to the provisions of section 13 of the Assam Land Revenue Re-assessment (Act VIII 1936), be such period as the State Government may determine in respect of any local area or class of estates.

Settlement shall be annual of periodic

53. Settlement shall be made by granting annual or periodic leases. Periodic leases shall ordinarily run up to the terminal year of the coming assessment. Subject to the provisions of rules 23 and 27, a person who has already acquired the status of land-holder in respect of any land shall be entitled to receive a periodic lease. When land has been taken up for a dwelling house or is under permanent cultivation a periodic lease should ordinarily be granted.
54. (Omitted by Notification No. 44-R., dated the 4th January 1940) (Omitted)

Different processes of assessment

55. The assessment of land shall consist of the following processes :—
- (a) Preliminary record writing, and field classification
 - (b) Record attestation

- (c) Submission of assessment reports
- (d) Revenue attestation
- (e) Offer of settlement.

Preparation of draft chitha or field index

56. After a village has been surveyed and demarcated a draft chitha or field index shall be prepared. The chitha shall be arranged according to the serial number of the fields in the village, and shall show, in addition to such other particulars as the State Government may direct, the name of the person who is in possession of each field, and the classification of each field according to a terminology to be previously approved by the Government. Disputes regarding the ownership of land or regarding the ownership of any interest, such as usufructuary mortgage in land, shall be decided in a summary manner and on the basis of actual possession, by the Settlement Officer or an Assistant Settlement Officer. The classification of as many fields as possible shall at this stage be tested on the ground by the Settlement Officer, the Assistant Settlement Officer and Officers not below the rank of Kanungo.

Preparation of draft Jamabandi and record attestation

57. Before record attestation begins the Settlement Officer shall cause a draft jamabandi to be prepared showing, in addition to such other particulars as the State Government may direct, the fields which have been found in the possession of each proprietor or settlement-holder and the classification of each field as entered in the draft chitha; but at this stage there will be no entry under the heading "revenue" in the draft jamabandi. Each proprietor or settlement-holder shall be furnished, before record attestation begins with an extract from the draft jamabandi showing the fields which have been found in his possession, and the proper classification of each field. The record attestation of each village shall be taken up by the Settlement Officer, or Assistant Settlement Officer hereinafter called the Attestation Officer, at a convenient place in or near the village. A proclamation shall previously be published in the village giving due notice to the proprietors and settlement-holders and calling on them to appear before the Attestation Officer, bringing with them their extracts from the draft jamabandi. As each proprietor or settlement holder appears before him the Attestation Officer if the proprietor or settlement-holder so desires, shall examine the entries in the draft jamabandi which relate to him, shall read out and explain the entries and shall make corrections when required. Dispute regarding the ownership of land, or the ownership of any interest, such as usufructuary mortgage in land, shall be decided by the Attestation Officer in a summary manner, and on the basis of actual possession. In the course of record attestation all the fields which have not already been inspected by a Kanungo or officer of higher rank shall now be inspected and the classification of the field shall be tested and if necessary corrected. The Attestation Officer shall hear and decide all objections to the classification of fields, and in all cases in which the field has not been inspected by the Settlement Officer, or an Assistant Settlement Officer, he shall personally inspect the field before deciding on its classification.

Submission of rate report

58. When the record attestation of a group of villages has been completed the Settlement Officer shall prepare and submit for sanction a rate report under the provisions of section 24 of the Assam Land Revenue Re-assessment Act, (VIII of 1936) and the rules framed thereunder.

Calculation of revenue payable for each estate and extract of draft Jamabandi to be distributed to each proprietor or settlement holder

59. On receipt of the State Government's orders on the rate report the Settlement Officer shall calculate accordingly the total revenue payable for each estate and shall enter it in the draft jamabandi used at the record attestation. The revenue attestation of each village shall be taken up by the Settlement Officer or Assistant Settlement Officer (hereinafter called the Attestation Officer) at a convenient place in or near the village. A fresh extract from the draft jamabandi showing only the total area, the total revenue as calculated, and the alteration if any, made in the jamabandi at record attestation shall be distributed to the each proprietor or settlement-holder. A proclamation shall also be published in the village giving sufficient

notice to proprietors and settlement-holders and calling on them to appear before the Attestation Officer bringing with them their extracts from the draft jamabandi. As each proprietor or settlement-holder appears before him the Attestation Officer shall read out to him the total areas entered against his name in the draft jamabandi and the total assessment which is proposed in his case. The Attestation Officer shall hear and decide any objection which may be put forward.

If an objection be raised to the classification of a field which has not yet been inspected by an officer above the rank of Kanungo, the Attestation Officer shall personally inspect the field and decide on its classification. The Attestation Officer shall also make known to the people the law governing progressive enhancement of land-revenue, – section 12 of the Land Revenue Re-assessment Act, (VIII of 1936) – and in consultation with the settlement-holder shall prepare a list of persons who are entitled to the benefit of these provisions. If at the time of revenue attestation a person produces his extract from the draft jamabandi the Attestation Officer shall cause to be entered on it the revenue as finally proposed both field by field and in total. After revenue attestation the Settlement Officer shall submit through the Director of Land Records any case requiring the orders of the State Government, under Section 12(1)(b) of the Re-assessment Act. If on further consideration the Settlement Officer would alter the classification or rates of a whole village, he shall report the case at this stage through the Director of Land Records for the order of the State Government.

Preparation and signing of leases and offer of settlement

60. After receipt of the orders of the State Government and subject to such orders, the Settlement Officer shall make a final copy of the chitha and jamabandi. This final copy of the jamabandi shall be the record of rights of proprietors and settlement-holders within the meaning of section 40 of the Regulation. The Settlement Officer shall also prepare, sign and seal periodic or annual leases, as the case may be, which shall correspond in all particulars with the entries in the record of rights. The Settlement Officer shall then issue a proclamation, which shall be posted in a conspicuous place in or near each village stating the date on which and the place at which the lease will be offered to the persons entitled to receive them. On such date and at such place the Settlement Officer or any other officer that he may depute for the purpose, shall, if the persons entitled to receive the leases are present, tender to them the leases standing in their respective names. If any of these persons are absent, the officer tendering may sign a general notice in the following form, or to the like effect, and cause a copy thereof to be affixed within three days of the aforesaid date at some conspicuous place in the neighbourhood of the centre selected for the distribution of leases:—

“The undermentioned persons being absent I hereby offer to them the leases standing in their respective names”.

The tender of a lease, or the affixing of a copy of the notice containing the offer of a lease, as the case may be shall be equivalent in each instance to an offer of settlement within the meaning of section 31-39 of the Regulation.

61. (Omitted by Notification No. 44-R, dated the 4th January, 1940) (Omitted)

Particulars which the chitha shall contain

62. The Chitha referred to in rule 60 shall contain the following particulars, in addition to any which may be specially directed by the State Government:—

1. Number of the field.
2. Area of the field.
3. Name, father's name and residence of the proprietor or settlement-holder.
4. Tenure.
5. Assessment class or classes and area of each class of land in the field.

Particulars which the Jamabadi shall contain

The jamabandi referred to in Rule 60 shall contain the following particulars, in addition to any which may be specially directed by the State Government:—

1. Number of the estate
2. Name, father's name and residence of the proprietor or settlement-holder.
3. Number of each field.
4. Area of each field.
5. Class of each field.
6. Area of each class in each field.
7. Revenue (if any)
8. Local Rate.

How settlement may be refused

63. (1) Any person to whom an offer of settlement has been made in accordance with these rules, and who desires to refuse it, shall, within 30 days of the offer, inform the Settlement Officer of the refusal by noting in writing on the lease that he refuses to take settlement, and by returning the lease to the Settlement Officer. No refusal shall be valid unless made within the time and in the manner prescribed above.

How settlement may be accepted

(2) In those local areas in which sections 33(2) and (3) are in force, the person to whom an offer of settlement has been made shall, if he is willing to accept it, deliver to the Settlement Officer within 30 days as aforesaid an acceptance in writing under his hand in Form No. 13.

SECTION IV (This is new Section introduced by Notification No. 44-R., dated the 4th January, 1940, in substitution of the old Section)

TOWN LANDS

GRANT OF LEASES AND SETTLEMENT OF LAND-REVENUE IN RESPECT OF TOWN LANDS

Definitions

64. In this section of the Rules, unless there is Definitions anything repugnant in the Subject or context —

(a) **Town land** means any land (Inserted by Notification No. RSS. 30/76/1, dated 27th November, 1976) [within the limits of the city of Guwahati constituted and notified from time to time under the provisions of Section 42 of Guwahati Municipal Corporation Act, 1964 (Assam Act, 1 of 1973)], within an area declared or deemed to be a municipality or notified area under the Assam Municipal Act, 1956. (Assam Act, XV of 1957) and any other land which the State Government may declare, (Inserted by Notification No. RS. 112/42/18, dated the 19th February, 1940) [under the Assam Land and Revenue Regulation or in accordance with the provision of section 3 of the Land Revenue Reassessment Act, (Assam Act, VIII of 1936), to be town land]

(b) **Short lease** means a lease which is granted for any period not exceeding three years which confers upon the lessee no right in the soil beyond a right of user for the period, and in particular which confers no right of inheritance beyond the period of the lease or of transfer.

(c) **A periodic lease** for town lands means a lease which is granted for more than three years, and which (Added Vide Notification No. RSS. 351/64/92, dated 18th May, 1967) [if granted for not less than ten years confers a permanent, heritable, and transferable right of use and occupancy in the land, subject always to the due payment of land-revenue and local taxes, cesses, or rates, to the reservation in favour of Government of all quarries, mines, minerals, mineral oils and all buried treasure, to the absolute forfeiture of the lessee's interest in the land on his refusal to take the renewal of the lease on the expiry of its term,

and to the special conditions of any engagement into which the land holder may have entered with Government.

(d) **The settlement of a town** means a special operation carried out under the provisions of section 17-42 of the Regulation for the formal revision of the land-revenue demand of that town.

(e) **The terminal year of a town** means the, year up to which the rates of land revenue shall, according to the orders passed by the State Government at the last settlement of the town, remain in force

(f) Waste land means unoccupied land, the property of the State Government, which the Government have not disposed of by lease, grant, or otherwise.

Town land in backward locality may be exempte from operation of this Section

65. The State Government may from time to time, by notification in the official Gazette, exempt from the operation of this Section of the rules any town land on the ground of the backward condition of the locality and dispose of it by lease for such term and at such rates as they may think fit.

A. Initial leases of waste lands in town

Waste lands in towns shall be settled by the Deputy Commissioner in accordance with rules 67-71

66. **Waste land** in towns shall settled by the Deputy Commissioner in accordance with rules 67-71 of these rules subject to confirmation by the (Substituted by Notification No. KSS. 261/62/9, dated 14th May 1963) State Government. In subdivisions the functions of the Deputy Commissioner shall be exercised by the Subdivisional Officer, subject to the control of the Deputy Commissioner. In this Section of the rules, unless the contrary is apparent from the context the expression "Deputy Commissioner" includes a Subdivisional Officer.

Applications for lease of waste land in towns shall be in writing

67. Lease of Waste lands in town shall be obtained by formal application only. Applications for leases of Waste land in towns shall be in writing and shall be presented to the Deputy Commissioner, who will have a map prepared of the land or have it indicated on an existing map, and after making such local inquiry as he thinks fit, either by himself or by a gazetted officer shall pass an order allowing the application in whole or in part or disallowing it altogether.

(2) (Substituted vide Notification No. RSS. 331/64/92, dated 18th May 1967) [Provided that settlement of town land shall, unless the State Government otherwise direct, be subject to prior payment of premium at such rate as may be fixed by the State Government]

(Deleted by Notification No. RSS. 351/64/92, dated 18th May, 1967)

68. If a lease is granted it shall ordinarily be a periodic lese for town land running from the year in which it is granted to the terminal year of the town in question.

Provided that the Deputy Commissioner may grant short leases for terms not exceeding three years of lands which it is not considered desirable to lease except for temporary purposes.

When a short lease for town land is converted into a periodic lease a premium shall, unless the Government otherwise direct, be charged at a rate approved by State Government (Substituted by Notification No. RSS. 261/62/9, dated 14th May, 1963)

Periodic lease shall not be issued for town land within 25 feet from centre of road

69. No new periodic lease shall be issued, without the previous sanction of (Substituted by Notification No. RSS. 261/62/9, dated 14th May 1963) State Government for town land within 25 feet, or such other distance as may be laid down by special order of Government, of the centre line of any road maintained

by the Public Works Department or (Substituted vide Notification No. RSS. 351/64/92, dated 18th May, 1967) [The Municipal Board or the town Committee under the Assam Municipal Act, 1956 or the Panchayat].

70. The land-revenue which is payable shall be determined in accordance with the principles laid down in sections 16-19 of the Assam Land Revenue Reassessment Act, VIII of 1936, and rule 73 below.

B. – SETTLEMENT OPERATION

Forecast report

71. A forecast report is required for a resettlement under section 6 of the Assam Land Revenue Re-assessment Act, and the rules framed thereunder.

Appointment of Settlement and Survey Officers

72. When the State Government have declared that a town is under settlement they may, for the purpose of carrying out operations, appoint under section 133 of the Regulation a Settlement Officer and if necessary one or more Assistant Settlement Officers, and also under Section 134 a Survey Officer, and one or more Assistant Survey Officers.

Provided that the same officers may be vested with the powers of a Settlement Officer and a Survey Officer, or with the powers of an Assistant Settlement Officer and an Assistant Survey Officer.

Revenue of town land must not exceed annual value of the sit

73. Town land shall be settled at a fair and equitable revenue in accordance with the principles laid down in sections 16-19 of the Assam Land Revenue Re-assessment Act, (VIII of 1936). In no case shall it exceed the annual value of the site. This value will depend upon local circumstances and on competition and must be determined by enquiry. With the exception of short leases every lease of town lands shall be renewable from time to time on expiry at the option of the settlement holder, subject to his agreeing to pay the revenue, taxes cesses and rate which may be assessed or imposed in respect of the lands at the resettlement and these rules shall apply to every such renewal whether the expiring lease was or was not granted under them.

Revision of revenue of town land

74. The revenue of town lands may be revised before the expiry of the term of the lease, under the provisions of section 21 of the Assam Land Revenue Re-assessment Act, 1936.

If the Settlement Officer has made any sub-class for “unutilised land”, and if at any time any “unutilised land” be converted into a residential site or a trade site, it shall be liable to reassessment at the rate fixed at the last settlement for similar residential sites or trade sites in the town.

Town of periodic leases of town land

75. The term for which periodic leases for town lands shall be issued is regulated by the provision of section 21 of the Assam Land Revenue Re-assessment. Act, (VIII of 1936)

Procedure for assessment of town land

76. The procedure for the assessment of land as laid down in rules 55-59 above and the rules under the Assam Land Revenue Re-assessment (Act VIII of 1936) shall, subject to the provision of the aforesaid Act, be followed as closely as may be in the assessment of town lands.

C – RELINQUISHMENTS

Relinquishment

77. The provision of rule 24 shall, so far as may be applicable, apply to town lands also.

SECTION – V (This is a new Section introduced by Notification No. 44-R, dated the 4th January 1940, in substitution of the old Section.)

[PREPARATION OF RECORD OF RIGHTS OF TENANTS AND ADHIARS]

application of these rules to preparation of record of rights in any local area

78. The rules in this Section apply to the preparation of a record of tenants' [and adhiars'] rights in any local area other than areas included in permanently settled estates when the preparation of a record of tenants [and adhiars'] right has been ordered under section 18 of the Regulation.

(Inserted vide Notification No. RSS. 351/64/99, dated 18th May, 1967) **[Note – in these rules the words “adhiars’ shall have the same meaning as defined in the Assam Adhiars Protection and Regulation Act, 1948 *Assam Act XII of 1943]**

Different processes in preparation of record of rights

79. When an order has been made under section 17 of the Regulation directing that a record of tenants [and adhiars] rights shall be prepared in the manner prescribed below and shall consist of the following processes:—

- (a) Preliminary survey and record-writing.
- (b) Record attestation.
- (c) Preliminary publication and disposal of objections.
- (d) Preparation of final record
- (e) Publication of final record
- (f) Distribution of final record.

Particulars to be shown in draft chith

80. The draft chitha or field index prepared under rule 56 shall show the names of tenants, [and adhiars] the rent payable in respect of, and the length of possession of, the holding of each tenant [or adhiars] in addition to such other particulars as the State Government may direct. Disputes regarding the houndary of any holding lying within the landlord's holdings or estate shall be decided in a summary manner and on the basis of actual possession.

Khatians and record attestation

81. (1) The Settlement Officer shall then cause draft khatian to be prepared from the chitha. These shall contain the particulars included in the chitha and there shall ordinarily be a separate khatian for each person or body of person interested. In case of lands not used for purposes connected with agriculture, the khatian shall show briefly the use to which the land is put. (2) Each tenant [or adhiars] and his landlord shall be furnished, before record attestation begins, with a copy of the draft khatian. The record attestation of each village shall be taken up after sufficient time shall have been allowed to the tenant [and the dhiars] and their landlords to study the copies of their khatians, at a convenient place in or near the village. A proclamation shall previously be published in or near the village concerned giving due notice to the tenants [and adhiars] and their landlords and calling on them to appear before the Assistant

Settlement Officer with their copies of the draft khatian. As each copy of the draft khatian is produced the Assistant Settlement Officer shall examine the entire therein, shall read out and explain the entries, and shall make corrections where required. Disputes regarding the ownership of any holding shall be decided by the Assistant Settlement Officer in a summary manner and on the basis of actual possession. The Assistant Settlement Officer shall in the like manner decide all questions as to the correctness of the entries in the khatian and in particular those relating to the rent, and the class to which the tenant belongs, irrespective of whether any of those entries may or may not have been disputed.

Publication of draft record of rights

82. The draft record-of-rights, consisting of the khatian as corrected under rule 81, shall be published by being placed for public inspection free of charge during a period of not less than one month at such convenient place as the Settlement Officer may determine. A proclamation shall previously be published in or near the village informing the landlord or landlords and the tenants [and the adhiars] of the place at which and the period during which the draft record will be open to public inspection and of the last date on which objections may be filed. Notwithstanding anything contained in the proclamation the Settlement Officer may extend the period during which the draft record will be open to inspection and during which objections may be filed.

Filing and hearing of objections

- 82(A). Objections to the draft record of rights shall be made in a form approved by the State Government. Blank forms of objection shall be provided free of charge. Along with the original objection the objector shall file sufficient copies thereof for service on the opposite party or parties. The Assistant Settlement Officer shall issue notice to all persons concerned of the date and place fixed for the hearing of the objection. The record shall contain the names of the witnesses examined and an abstract of the reasons for absence of any of the parties materially interested unless the Assistant Settlement Officer be satisfied for reasons to be recorded in writing that the notice was duly served on all the persons concerned.

Framing of final record

- 82B. When all the objections under rules 82 and passed on all appeals to the Settlement Officer from the orders of the Assistant Settlement Officer and the draft record corrected where necessary, the Settlement Officer shall frame the final record in conformity with the draft record thus corrected. The final record shall be the file of khatians as thus corrected and the chithas or field index shall not form part of it. The final record shall be printed or prepared in manuscript as the State Government may determine.

Publication of final record

- 82C. The Settlement Officer shall publish the final record-of-rights by placing it for public inspection free of charge at the place where the draft record-of-rights was published. A proclamation shall previously be published informing the landlords and tenants [and adhiars] of the place at which the final record will be opened to inspection and the period, which shall not be less than one month, during which it will be opened to such inspection.

Distribution of maps and final record

- 82D. When a map has been prepared in carrying out the settlement operations ordered under section 18 of the Regulation, it may be printed under the authority of the State Government, and may be distributed to public Officers, to landlords and to tenants [and adhiars] and to others in such manner as the State Government may from time to time by general or special order direct. Copies of the final record of tenants' [and adhiars'] rights or of portions thereof shall be printed or prepared in manuscript, and shall, after certification as prescribed under section 76 of the Indian Evidence Act, (Act, 1 of 1872) be distributed to public officers, to landlords and tenants [and adhiars] and to others, in such manner as the State Government may from time to time, by general or special order, direct. The printed maps and copies of the record or portions thereof, which are distributed under this rule to persons other than public officers, shall be distributed free or on payment according as, in the case of each local area or class of estates, the State Government may direct.

Cost of preparation of record-of-rights to be defrayed by proprietors, etc.

82E. (1) Costs incurred in the preparation of record of tenants [and adhiars] rights or such part of the costs as the State Government may direct, shall be defrayed by proprietors, settlement-holders, and tenants [and adhiarars] in such proportion and in such instalments as the State Government may determine.

(2) The cost of preparing the copies of maps and of the record-of-rights distributed free under rule 82D shall be deemed to be part of the costs of the preparation of a record of tenant's [and adhiar's] rights.

(3) The portion of the aforesaid costs which any person is liable to pay shall be recoverable as an arrear of land revenue.

Settlement Officer may correct record-of-rights within two years of sftermination of operations

82F. The Settlement Officer, or if there be no Settlement Officer, the Deputy Commissioner, may on application or of his own motion, within two years of the date of the notification under section 1 of the Regulation declaring settlement operations to be closed, correct any entry in a record of tenants [and adhiars] rights which he is satisfied has been made owing to a bona fide mistake:

Provided that no such correction shall be made until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

CHAPTER – II

RULES FOR THE ALLOTMENT OF GRAZING GROUNDS

Survey and demarcation of grazing grounds

83. Whenever it may appear to the Deputy Commissioner, after local inquiry, to be necessary that any land should be allotted from the land referred to in section 12 of the Assam Land and Revenue Regulation, 1886, to the inhabitants of any village or Villagers as a grazing ground, the Deputy Commissioner shall cause such land to be demarcated with temporary boundary marks and, if it has not been already cadastrally surveyed, a map of it to be prepared on the scale of 16 inches to the mile.

Note – The boundaries of village grazing grounds should, as far as possible, be straight and easily demarcated.

Preparation of notice

84. When the land which is proposed to allot as grazing ground has been temporarily demarcated and the map, if required, has been prepared, the Deputy Commissioner shall cause a notice to be prepared of the proposal to allot the said land as a grazing ground.

vide Form No. 107

Publication of notice

85. This notice shall be published in English and in the vernacular at the office of the Deputy Commissioner and at the subdivisional office, circle office and police station within the jurisdiction of which the land which it is proposed to allot as grazing ground is situated, and in the Assam Valley on the notice board of the gaonbura or gaonburas concerned, and published by beat of drum in the vicinity.

Hearing of objection

86. The Deputy Commissioner shall receive and inquire into any objection which may be presented to him against the allotment of the proposed grazing ground within one month after the date of publication of the notice referred to in rule 85, and on such inquiry may add any available adjacent waste land to the proposed grazing ground or remove any land from it.

Powers of Deputy Commissioners to alter the area and boundaries

87. If, on inquiry into objections under rule 86, the Deputy Commissioner makes any alteration in the area or boundaries of the proposed grazing ground, he shall publish a revised notice in the manner prescribed in rule 85, and shall cause at the same time the revised boundaries to be temporarily demarcated and shown on the map. He shall receive and inquire into any objections which may be presented within one month of the publication of the revised notice, as provided on rule 86.

Confirmation of proceedings

88. When all objections presented within one month of the publication of a notice under rule 85 or of a revised notice under rule 87, have been disposed of and no alteration or no further alteration of the area or boundaries of the proposed grazing ground appears to the Deputy Commissioner to be necessary, he shall report his proceedings to the Commissioner who may confirm them with the approval of Government.

Cost of demarcation

89. As soon as the proceedings have been confirmed, the Deputy Commissioner shall prepare an estimate of the cost which may be incurred in demarcating the grazing ground with such boundary marks as may be required and notify the amount of such cost to the inhabitants of the village or villages concerned in such manner as he may deem fit, requiring it to be deposited at the Treasury within such time as he may direct.

Extinction of rights

90. Notwithstanding anything contained in rules 83 to 88, all grazing grounds with areas and boundaries defined, constituted out of any land over which at the time they were constituted, no person had the rights of a proprietor, land-holder or settlement-holder, by the Settlement Officer at the regular settlement or re-settlement of a district, shall be deemed to have been constituted under the said rules.

Declaration of grazing grounds

91. As soon as the cost of demarcation has been deposited the Deputy Commissioner shall cause to be published in the manner prescribed in rule 85, a final notice declaring the land to be allotted as grazing ground. He shall also cause the grazing ground to be entered in the register of grazing grounds and the boundaries thereof to be demarcated with such boundary-marks as may be required.

Vide form Nos. 108 and 109

Use of grazing ground free charge after issue of final notice

92. After the issue of the final notice declaring land to be allotted as grazing ground, such land may be used as a grazing ground free of charge by persons other than professional graziers, and shall not be occupied or disposed of for any other purpose unless the State Government shall so direct.

Conditions for use of grazing grounds

93. The Deputy Commissioner may, if he thinks desirable to do so, prescribe conditions on which a grazing ground may be used, and in such cases may issue passes either generally or by name to persons entitled to use it.

Rate of fees for the use of village grazing grounds

94. Professional graziers are not entitled to use village grazing grounds except in quite exceptional circumstances. In such circumstances the Deputy Commissioner may charge entirely at his discretion for any halt exceeding 7 days at a rate not exceeding twice the annual grazing fee obtaining in the district concerned for the cattle so kept. For a period of 7 days only or less the Deputy Commissioner may at his

discretion charge at a rate not exceeding the annual grazing fee obtaining in the district concerned for the cattle so kept. If the Deputy Commissioner finds it possible to require his previous permission to the use of village grazing grounds in either of the two cases above referred to, he may exercise his discretion accordingly.

Punishment for contravention of rule

95. When any grazing ground has been finally demarcated under rule 89, no person shall occupy any part of such grazing ground for purposes other than grazing. Whoever contravenes this rule shall be punished with fine to be imposed by the Deputy Commissioner which may extend to fifty rupees.

Note – All Subdivisional Officers in the State of Assam have been invested with the powers of a Deputy Commissioner under this rule, vide Notification No. 1575-R., dated the 10th June 1927.

Rule 95-A. – (Inserted by Government Notification No. RD. 29/44-II/152, dated the 24th July 1948) – If at any time the Deputy Commissioner is of opinion that a village Grazing Ground constituted under the foregoing rules is wholly or in part not needed for the purpose for which it was allotted, he shall publish a notice regarding the proposed cancellation of the allotment, hear objections and forward his proceedings together with his recommendation to Government for final orders. The manner of publication of notice and hearing objections shall be the same as in the foregoing rules. In making his recommendation the Deputy Commissioner shall consider if any payment is to be made to the villages as a body for the cost of demarcation if any borne by them originally and whether the claims of persons who may have surrendered land for the purpose of constituting the reserve should revive on cancellation of the reserve or part thereof. The Government will pass orders either accepting, rejecting or modifying the recommendation of the Deputy Commissioner.

Delegation of Deputy Commissioner's power to Subdivisional Officer

96. The Deputy Commissioner may direct a Subdivisional Officer to make the preliminary inquiry, issue notices, and hear objections in regard to the allotment of grazing grounds in his subdivision.

CHAPTER II A

RULE UNDER SECTION 20

Barring of application of certain sections or portions of sections to particular area or class of estates.

- 96A. (1) The following provisions of the Land and Revenue Regulation shall not apply to the settlement of any area or estate in the Assam Valley or in the district of Cachar excluding Karimganj Subdivision, viz:—

(i) Sub-section 2 of section 33.

(ii) Sub-section 3 of section 33 so far as it relates to the delivery of an acceptance.

(iii) Provision (a) to section 34, and

(2) In addition, sections 18 and 19 shall not apply to any area or estate in the Assam Valley or in the district of Cachar excluding Karimganj Subdivision which is not included in a village which has been traversed, surveyed, mapped and classed.

CHAPTER III

RULES UNDER SECTIONS 26,27,152 AND 155 (SURVEY AND DEMARCATION OF LAND)

Revenue Officer to whom reports on boundary-marks are to be made

97. The Revenue Officer to whom proprietors, settlement-holders, and other persons mentioned in section 26 of the Regulation are required to report if permanent boundary-marks have been injured, destroyed removed or require repairs, shall be the Sub-Deputy Collector in charge of Land Records.

Traverse survey

98. When a survey and demarcation of land in any local area or class of estates is ordered to be made under Part B of Chapter III of the Assam Land and Revenue Regulation (1 of 1886), operations shall be initiated by a traverse based on theodolite observations, which shall, if possible, be connected with two or more points which have been fixed by previous surveys.

Map

99. For each village a large scale cadastral map based on the traverse survey and showing roads, rivers, railways and other physical features of the country, as well as homesteads and other fields, shall be prepared. Where a suitable large scale map is already in existence, it will not be necessary, unless the Survey Officer so direct, to prepare a fresh map: the existing map may be brought up to date.

Boundary marks

100. Where the village has not already been demarcated in an adequate manner, boundary-marks of a permanent nature shall ordinarily be erected at every point where the boundaries of three villages meet. Traverse stations shall also be marked by tree or such other suitable marks as the State Government may from time to time direct.

Recovery of cost

101. The total cost of the traverse and cadastral surveys, of compensation due on account of anythings done under the orders of a Survey Officer, and all expenses incurred in erecting and repairing boundary-marks, shall be realised from the proprietors, land-holders and persons entitled to receive rent in respect of any land included in the local area or class of estates covered by the survey and demarcation above mentioned:

Provided that in the case of temporarily-settled estates only the cost of boundary-marks including traverse station's shall be realised.

Levy of cost as an arrear of land-revenue

102. The amount to be recovered under the last preceding rule shall be levied as an arrear of land-revenue and shall be apportioned in the manner described in the next following rule with the exception of the cost of boundary-marks of estates, which shall be realised in the manner described in rule 105 below.

Apportionment of cost

103. When a survey carried out under the provisions of Part B of Chapter III of the Assam Land and Revenue Regulation has been completed, the Survey Officer shall submit to the Deputy Commissioner a statement showing the total cost incurred in the traverse and cadastral survey and in erecting and repairing boundary-marks including traverse stations within the area included in the survey. The Deputy Commissioner, on receipt of such statement, shall proceed to apportion the amount among the proprietors, land-holders and persons entitled to receive rent in respect of the land included in the survey.

Note – Settlement-holders other than proprietors and land-holders are not liable to the payment of the cost of survey under these rules.

Method of apportionment

104. In making such apportionment in areas other than the permanently-settled estates of Cachar and Goalpara, the Deputy Commissioner shall charge each proprietor, land-holder or person entitled to receive rent in respect of land included in the survey and assessed at full rates of revenue with such sum per rupee of revenue payable by him as shall suffice to cover the total cost of the survey and demarcation.

In the permanently-settled estates of Cachar and Goalpara the total cost of the survey and demarcation of the settled area shall be recovered from each proprietor and tenure-holder in proportion to the area of land under survey held by him. If the tenure is rent-free, the whole cost shall be recovered from the tenure-holder. If the tenure is permanent, three-fourths of the cost shall be recovered from the tenure-holder and one-fourth from the proprietor. If the tenure is temporary, half the cost shall be recovered from the tenure-holder and half from the proprietor, unless the tenure has less than 5 years to run from the date of final publication, in which case the proprietor should pay the whole cost.

When land is held at privileged rates of revenue or where no revenue is payable by any proprietor and land-holder of land included in the survey, the land shall, for the purpose of apportionment, be assessed at the rate applicable to similar land in neighbouring estates paying full revenue; provided that when any land has already been permanently demarcated at the cost of the proprietor, land-holder, or person entitled to receive rent in such a manner that would, in the opinion of the Deputy Commissioner, be inequitable to lay any further charge on him on account of the survey, the land so demarcated may, with the previous sanction of the Commissioner, be omitted from the apportionment.

Explanation – For the purpose of the present rule, the term “tenure-holder” shall be held to mean a person having a permanent and transferable interest in land intermediate between the proprietor and the raiyat but not having occupancy right.

Apportionment of demarcation charges

105. When any land is demarcated under sections 22 and 24 of Regulation I of 1986, the cost of all marks supplied by State Government, together with other charges which may be incurred in connection with the demarcation, shall be recoverable from the proprietor, land-holder, or other person entitled to receive rent in respect of the estate, as an arrear of land revenue. When any marks have to be put up on the boundary between two estates, the Survey Officer shall apportion the cost as he thinks equitable, having regard to the question whether the marks are required to complete the demarcation of both.

Notice to persons liable

106. When the Deputy Commissioner has in this manner apportioned the amount payable by each person liable in the area covered by the survey, he shall cause each such person to be served with a notice, in such manner as the State Government may from time to time direct, of the amount payable by such person accordingly.

Barring of the operation of rules

107. The State Government may declare that all or any, portion of any, of the above rules shall not apply in the case of any local area or class of estates.

CHAPTER – IV

REGISTRATION RULES UNDER CHAPTER IV OF THE REGULATION

General Register of Revenue paying estates.

108. The General Register of revenue-paying estates in each district, prescribed by section 48 of the Land and Revenue Regulation, shall consist of three parts, viz.

Part I – Permanently settled estates.

Part II – Temporarily-settled estates other than waste land grants.

Part III – Waste land grants other than fee-simple and redeemed leases.

Part I shall be kept in Form No. 19 or in such other form as may be specially prescribed by the State Government.

Part II Shall be kept in ordinary periodic jamabadi form until the district has been resettled, when it will be the jamabandi Register which is prepared by Settlement Officer.

Part III shall be kept in Form 20.

Note – The extent to which the forms here prescribed have been introduced has been mentioned in the note to section 49 of the Regulation.

General Register of revenue-free estates

109. The General Register of revenue-free estates prescribed by section 48 of the Land and Revenue Regulation shall be in Form No. 21 to 24 according to the district in which it is kept.

General Registers where be kept

110. The General Register of revenue-free estates and the General Registers of revenue-paying estates, (a) permanently-settled and (b) waste land grants, shall be kept for each district in the office of the Deputy Commissioner of the district. The General Registers of revenue-paying temporarily-settled estates other than waste land grants shall be kept at the headquarters of the subdivision or district, as the Deputy Commissioner may direct.

Language in which registers are to be kept

111. All registers prescribed by these rules shall ordinarily be written in the language of the district in which they are kept. Registers of waste land grants for special cultivation may be kept in English.

Power of State Government to order new registers to be prepared

112. The State Government may, whenever they think fit, order new registers to be prepared from the registers existing at the time of such order and form any other authentic information available to the Deputy Commissioner; and such additions to, omissions from, and alteration in, the entries as they appeared in the previous registers shall be made as subsequent changes have rendered necessary and the authority for every change shall be expressly referred to.

Entry of estates on part of registers on which not previously borne

113. Whenever, after the preparation of the General Registers, it may be necessary to bring any estate on to any part of such registers on which it is not already borne, such estate shall be brought on to such part under a new number in continuation of the last number of such part.

All new entries under this rule shall be made in chronological order.

Alteration to be noted in General Registers

114. A note shall be made from time to time in the General Registers of revenue-paying and revenue-free estates —

- (a) Of every alteration ordered by the competent authority in the amount of revenue assessed on any estate;
- (b) Of every case in which lands entered as revenue-free may be declared liable to assessment, and assessed by competent authority;
- (c) Of every partition or union of an estate;
- (d) Of every removal of an estate from the part of the register on which it is borne;
- (e) Of the redemption of every mortgage in respect of which the name of the mortgagee shall have been entered on the register;
- (f) Of every relinquishment of an estate or of portion of an estate;

and in every such note reference shall be made to the authority under which the change was made.

In preparing the General Registers space shall be left for entries of the above description.

Alteration of entries in General Registers by Deputy Commissioner

115. Whenever it comes to the notice of the Deputy Commissioner that any change has occurred which affects any entry in the General Registers, and renders necessary any alteration therein, the Deputy Commissioner, after making such inquiry as may be necessary, shall make such alteration.

Provided that no such alteration shall be made without giving due notice to the recorded proprietors or land-holders, and managers of the estate which the alteration will affect, and to every person whose name it is proposed to register as proprietor, land-holder or manager of such estate before such registration is affected; and any objections, which may be preferred against the proposed change, or registration, shall be duly considered by the Deputy Commissioner before the change or registration is made.

Power of Deputy Commissioner to order the name of a proprietor, of etc., be struck out of register

116. Whenever it comes to the notice of the Deputy Commissioner that any person whose name is recorded in the General Registers as proprietor, settlement-holder or manager of an estate is no longer in possession of any such interest in the estate, the Deputy Commissioner may order the name of such person to be struck out from the register:

Provided that the Deputy Commissioner shall not strike out the name of any recorded proprietor or land-holder, or manager on behalf of a proprietor or land-holder, without giving him due notice and hearing any objections he may prefer against his name being struck out.

Information to be supplied to Deputy Commissioner on requisition

117. Every proprietor, land-holder, and manager of an estate and any person holding any interest in land, or employed in the management of land, shall be bound, on the requisition of the Deputy Commissioner, to furnish any information required by such officer for the purpose of preparing, making or correcting any entry in the General Registers of revenue paying and revenue-free land, or to show to the satisfaction of such officer that it is not in his power to furnish the required information.

Such requisition shall be made by a notice requiring the production of such information before a date mentioned in such notice.

If any person bound to give information under this rule voluntarily or negligently omits to do so, or to show to the satisfaction of the Deputy Commissioner that it is not in his power to furnish such information, he shall be liable to such fine as the Deputy Commissioner may think fit to impose, not exceeding Rs 100, for such omission, and the Deputy Commissioner may impose such further daily fine as he may think proper not exceeding Rs 50 for each day during which such person shall omit to give the required information after a date to be fixed by the Deputy Commissioner in a notice warning the said person that such daily fine will be imposed:

Provided that whenever that amount levied by the Deputy Commissioner under this rule exceed Rs 500, he shall report the case specially to the Commissioner of the Division and no further levy in respect of such fine shall be made otherwise than by authority of the Commissioner.

The date fixed by notices issued under this rule shall not be less than 15 days after service thereof.

Alteration of registers on decrees of Civil Court

118. Whenever any Civil Court makes a decree confirming any transfer of possession of a transferable estate, or gives effect to any decree transferring any such possession, such Court may order the transfer to be registered in the General Registers of the Deputy Commissioner, and the Deputy Commissioner shall register such transfer accordingly. (The attention of the Civil Courts was drawn to this rule in Circular No. 17R, dated the 21st April 1896, and it was pointed out that when directing registration, all information should be furnished which is likely to be required for filling in the columns of the General Register concerned.)

Note (Inserted by C.S.N.o. 82 to the fifth edition of this Manual vide Government letter No. L.B. 195/477-78R., dated the 14th February, 1934) – Registration fees should be levied from the persons in whose favour registration is made, at the rates prescribed in the 126. Such fees are realisable under section 144 of the Regulation as arrears of land revenue.

Registration of auction purchaser's name

119. When any Revenue Court grants a sale certificate under section 85 of the Regulation to the purchaser of a temporarily-settled estate or portion of a temporarily-settled estate at a revenue sale, the Deputy Commissioner shall order the auction purchaser's name to be registered in the General Register in place of that of the defaulter.

Application for registration or mutation

120. Application for registration or mutation may be presented by the applicant or by any person duly authorised by him in that behalf. The application if it refers exclusively to a temporarily-settled estate, shall bear (Substituted vide Notification No. RSS/351/64/102, dated 18th May, 1967) [a Court Fee Stamp of the value under Article I Schedule II, of the Court Fees Act, 1870] Separate application shall be made by every person having a separate interest or share as proprietor or manager. Joint application may be made when the proprietor or settlement-holders applying for registration hold an estate jointly without specification of shares.

If the applicant is a joint proprietor or settlement-holder in charge, or a manager, he shall in his application, specify the name of the persons on whose behalf he is in charge or manager and the right and extent of the interest of every such person.

The Revenue Officer duly empowered to entertain applications for registration shall satisfy himself that every heading has been properly and completely filled up, and that the application has been subscribed and verified by the applicant or his agent under a declaration that the particulars contained therein are true to the best of his knowledge and behalf. If the application is not in form as above directed, it shall be returned to the applicant for correction.

Note – The verification required by this rule is not permissive but compulsory and a person who knowingly subscribes a false verification is therefore liable to prosecution under section 199, Indian Penal Code.

Registration land Mutation Register

121. Every Revenue Officer duly empowered to entertain applications for registration or mutation of names shall keep a Registration and Mutation Register in Form No. 27. All applications for registration or mutation will be entered in this register. (Proviso to Rule 121 was deleted by Notification No. 2789-R dated the 11th August, 1936)

Note – (1) Cases undisposed of at the close of the year should be brought on to the new register in red ink, the number and date only being posted when very voluminous entries are concerned.

(2) Separate registers should be maintained in each subdivision one for the entries of mutation cases relating to permanently settled estates, waste land grants, lakhiraj and nisf-khiraj estates, and another for the entries of mutation cases relating to ordinary periodic khiraj estates.

Publication of notice

122.(1) The general notice that is issued under section 52(1) and under section 56(1) in the case of tenures shall be published by affixing a copy of the same on or at the following places —

(a) The catchery of the proprietor or land-holder of estate or other place where rents are ordinarily received, or at the office of the mauzadar, and in non-mauzadari areas at the office of the (Proviso to Rule 121 was deleted by Notification No. 2789-R dated the 11th August, 1936) [Gaon Panchayat and Anchalik Panchayat].

(b) Some conspicuous place such as the local post office, school or bazaar in at least one village appertaining to or near the estate to which the application relates, and if the estate comprises lands situated in more than one pargana or fiscal division, then in at least one village in each pargana or division containing such lands.

(c) (Substituted for the old clause (c) by Notification No. 2440-R, dated the 10th August, 1932. The words “every thana and “Munsifi” were omitted by Notification No. 3812-R, dated the 18th November 1936) The office of every Deputy Commissioner Subdivisional Officer, and Circle Sub-Deputy Collector, and in Cachar district in addition, the office of every Tahsildar and Sub-Registrar within whose jurisdiction the land or any part of the land to which application relates is known to be situated:

Provided that, if arrangements have been made to establish village public notice boards, it shall suffice under clauses (a) and (b) above if the notice be affixed to the board for the village that includes the land or a portion of the land to which the notice relates.

(The second proviso to rule 122(1) was deleted by Notification No. 2789-R, dated the 11th August 1936)

(Substituted for the old note by C.S. No. 115 to the fifth edition of this Manual) Vide Form No. 28.

(2) The special notice that is required to be served on the alleged transferor or his heirs under section 52(2) and in the case of tenures on the recorded proprietors of the estate under section 56 (1), and on other persons specified in rules 115 and 116 shall be served on the alleged transferor or other person by tendering to the person to whom it may be directed a copy thereof attested by the Deputy Commissioner, or by delivering such copy at the usual place of abode of such person, or to some adult male member of his family; or in case it cannot be so served, by pasting 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 herein before mentioned, it shall be served in such way as the Deputy Commissioner issuing such notice may direct.

(3) (Substituted for old clause (3) of rule 122 and the note there under by Notification No. 2468-R, dated the 14th August 1934) No fee shall be charged for the issue of a notice under sub-rule (1), but a fee of twenty-five paise (Inserted vide notification No. R.S.S. 351/64/102, dated 18th May 1967) [or such amount as may be fixed by Notification from time to time by the State Government] shall be charged upon the copy of the notice to be served upon the transferor or his heirs under sub-rule (2).

Note – If owing to the failure of the first notice a second or further notice has to be issued the charge will be twenty-five paise for each notice. Process fees other than those levied on account of notices referred to in this rule will be levied in accordance with rule 188(a). When mutation proceedings instituted on the report (chitha) of the mandal or patwari are not disposed of locally because the Revenue Officer does not find time to dispose of them, no fee will be charged for the first notices to the parties which amount only to an intimation to them as to when and where the case will be taken up.

(4) In such tracts as may from time to time be notified by the State Government, service of the copy or copies, of the notice referred to above may be effected by despatch by registered post.

Note – The State Government have notified that in the plains district of Assam the copies of the notice referred to in this rule may, where it is convenient, be served, by despatch by registered post.

Registers of applications to register and of registered talukdari tenures

123. The Deputy Commissioner or Subdivisional Officer shall keep a register of applications for registry of talukdari and other similar tenures under section 55 of the Land and Revenue Regulation, and also a register of such tenures actually registered under that section. Every application shall be made and may be presented by the applicant or any person duly authorised by him in that behalf. Every such application shall bear a stamp of fifty paise and no application shall be received unless it states that all persons interested in the tenure join in the application.

The Revenue Officer duly empowered to entertain applications for registration shall satisfy himself that every head has been properly and completely filled up, and that the application has been subscribed and verified by the applicant or his agent under declaration that the particulars contained therein are true to the best of his knowledge and belief. If the application is not in form as above directed, it shall be returned to the applicant for correction.

Vide Forms Nos. 26, 30 and 31

Payment of Cost

124. All costs of any inquiry or proceeding held by a Revenue Officer under Chapter IV of the Land and Revenue Regulation shall be payable by the parties concerned as such Revenue Officer may direct.

No. penalty on persons applying for registration suo motu

125. Notwithstanding anything contained in section 58 of the Land and Revenue Regulation, no fine shall be imposed under that section on any person who shall, at any time after the expiration of the time fixed for registration by section 50, of his own motion, and otherwise than after the issue of a notice under section 58, apply for the registration of his name, and of the character and extent of his interest.

Fees on transfers

126. Fees at the following rates shall be levied by the Deputy Commissioner, Subdivisional Officer, or other officer duly empowered to register transfer on the registry of any transfer under Chapter IV of the Land and Revenue Regulation, and no application for mutation or registration shall be entertained until such fees have been paid.

(1) In the case of revenue-paying lands excluding nisfkhiraj estates in the Assam Valley and waste land grants for special cultivation, twenty-five paise percent on the annual revenue payable to the State Government from the extent of interest transferred:

Provided that no fees shall be leviable when the land revenue payable from the extent of interest transferred is less than Rs 50.

(2) In the case of nisfkhiraj estates in the Assam Valley, fifty paise per cent on the annual revenue payable to the State Government from the extent of the interest transferred.

(3) In the case of waste land grants for special cultivation assessed to revenue or assessable at some future date during the term of the grant, fifty paise per cent on the maximum revenue payable during such term.

(4) In the case of revenue fee lands, 2 per cent on the annual value of the extent of the interest transferred, such annual value being calculated as laid down in the Assam Local Rates Regulation and in rules issued thereunder. In the case of fee simple grants no portion of which is under cultivation, the annual value shall be calculated at the rate of one rupees fifty paise an acre on the amount of land transferred:

Provided that no fee for the registry of any one transfer shall exceed Rs 100 or be less than fifty paise when the transfer relates to revenue-free estate, or less than twenty-five paise when the transfer-relates to a permanently-settled or nisf khiraj estate or to waste land grant, and for any fraction of paise a full paise shall be levied.

All fees under this or the following rules shall be levied from the persons in whose favour the transfer is registered, and shall be carried to the credit of the State Government.

Note – The levy of these fees in stamps is no longer compulsory, but they may be so levied if this is the most convenient course. The Commissioner is authorised to prescribe a procedure for their realisation.

Fees payable on registration of talukdari tenures

127. No application for registration of talukdari and other similar tenures under section 55 of the land and Revenue Regulation shall be entertained until the application has paid fee at the following rates:—

(a) If the annual rent of the tenure does not exceed Rs 1,000 at the rate of 5 per cent on the rent;

(b) If the annual rent of the tenure exceeds Rs 1,000, at the rate of 5 per cent on the rent up to Rs 1,000 and at 1 per cent on all above that amount:

Provided that, if application for registry is made after three months from the date of creation of the tenure, fees shall be levied at double the above rates and, if made after six months from the date of creation of the tenure, at four times the above rate.

Right of public to obtain extract from registers

128. The Deputy Commissioner or Subdivisional Officer shall supply an extract from any register mentioned in these rules to any person who may apply for the same, subject to the payment of the prescribed searching and copying fees.

Fees and prescribed condition for inspect in registers

129. The registers and records of Revenue Courts shall be open to inspection on all days on which the Courts are open between certain hours, which shall be fixed for each district by the Deputy Commissioner.

Authority to sanction inspection of registers and records deposited in the district or subdivisional record room shall be exercised only by the Deputy Commissioner or Subdivisional Officer, or when such officer is on tour, by the officer in charge of his office.

A Revenue Officer authorised to grant an application, to inspect any register or record shall, if he refuses such application record his reasons for such refusal.

If the application is granted, the applicant shall observe the following rules:—

- (a) He shall not take pen or ink into the recordroom.
- (b) He shall not in any way alter or erase any part of the registers or records he may inspect.
- (c) He shall not remove any registers or record from the record-room, or room of the Court where it is being kept.
- (d) Any person inspecting registers or records may be permitted to take notes or copies in pencil.
- (e) Any person inspecting registers or record deposited in the record-room shall do so in the presence of the Record-keeper or Assistant Record-keeper. Inspection of registers and records, before they have been deposited in the record-room, shall be made in the presence of any ministerial officer whom the Deputy Commissioner or Subdivisional Officer may appoint for that purpose.
- (f) A fee of one rupee shall be leviable in court fee stamps for the inspection of every register, or record of a case, after it has been disposed of; pending records may be inspected by parties to the case or by their authorised agents fee of charge. The court-fee stamps shall be attached to the application for inspection, and shall be punched before the application is granted.

CHAPTER V

RULES UNDER CHAPTER V OF THE REGULATION, RELATING TO ARREARS AND MODE OF RECOVERING THEM

SECTION I

GENERAL

Land-revenue when and how payable

130. Every sum payable on account of land revenue shall fall due on the dates specified below and shall be payable in such manner and in such instalments as therein prescribed. When land revenue falls due on a Sunday or authorised holiday the first open day after such Sunday or holiday shall be taken as the date on which the revenue fell due. The Deputy Commissioner or Subdivisional Officer shall be present in office up to sunset on the dates when land-revenue falls due in respect of per manently-settled estates.

Note – (1) For this rule and certain other of this Section are to be substituted in the case of Karimganj Subdivision of the Cachar district the rules contained in Section V of the same Chapter.

(2) When the settlement-holder of an estate resides in a subdivision other than the subdivision in which the estate is situated, and arrears of land-revenue or local rates of the estate are realised by the Subdivisional Officer in whose jurisdiction the defaulter resides, amounts realised should be remitted to the subdivision in which the estate is situated by money order, the charge, for the commission on it being borne by the State revenue.

DATES AND AMOUNTS OF KISTS

PART I – ORDINARY LAND REVENUE

CAHCAR (EXCLUDING KARIMGANJ SUBDIVISION):— All estates paying Rs 10 and above, three instalments, viz., one-fourth on 1st August, one-fourth on 1st November and half on 1st March. All estates paying less than Rs 10 one instalment on date from 1st to 7th March, inclusive.

Pargana	To whom to be paid	First instalment	Second instalment	Third instalment
		Latest date	Latest date	Latest date
Barakpar	Tahsildar, Silchar	1 st August	1 st November	1 st March
Joynagar	Ditto	2 nd August	2 nd November	2 nd March
Udharbund	Ditto	3 rd August	3 rd November	3 rd March
Barkhola	Ditto	4 th August	4 th November	4 th March
Rajnagar	Ditto	5 th August	5 th November	5 th March
Banskandi	Ditto	6 th August	6 th November	6 th March
Chatlahaor	Ditto	7 th August	7 th November	7 th March
Gumra	Ditto Katigora	1 st August	1 st November	1 st March
Katigora	Ditto	2 nd August	2 nd November	2 nd March
Jalalpur	Ditto	3 rd August	3 rd November	3 rd March
Phulbari	Ditto	4 th August	4 th November	4 th March
Leberputa	Ditto	5 th August	5 th November	5 th March
Jatrapur	Ditto	6 th August	6 th November	6 th March
Haritkar	Ditto	7 th August	7 th November	7 th March
*Davidsonabad	Ditto Sonol	5 th August	5 th November	5 th March
*Bhuban Hill	Ditto	4 th August	4 th November	4 th March
*Banraj	Ditto	2 nd August	2 nd November	2 nd March
*Rupairbali	Ditto	3 rd August	3 rd November	3 rd March
*Sonapur	Ditto	1 st August	1 st November	1 st March
*Lakhipur	Ditto Silchar	8 th August	8 th November	8 th March
Bikrampur	Mauzadar, Bikrampur	1 st August	1 st November	1 st March
Kalain	Ditto	3 rd August	3 rd November	3 rd March
Hailakandi	Tahsildar Hailakandi	1 st August	1 st November	1 st March
Saraspur	Ditto Hailakandi	3 rd August	3 rd November	3 rd March
Vernerpur	Ditto Hailakandi	5 th August	5 th November	5 th March

*Original entries against each pargana were replaced by these Notification No. RR. 30/42/30, dated the 6th July 1942.

*Substituted for the original vide Government Notification No. RR. 29/48/8, dated 3rd June 1948

All tea planters may, if they wish to do so, pay revenue on all classes of land direct into the Treasury.

Goalpara (permanently-settled tract). – All estates over Rs 50, two instalments, viz., 30 per cent on 30th September and 70 per cent on 15th January. All estates of Rs 50 and under one instalment on 30th September. Revenue payable direct to Treasury.

Assam Valley (excluding permanently-settled tracts) – Regular settlement. – In villages which pay their land-revenue, or a considerable proportion of their land-revenue, by the production and sale of mustard or pulse (matikolai), one instalment on the 15th March, in villages which pay their land-revenue, or a considerable proportion of their land-revenue by the production and sale of jute, one instalment on the 15th November, in other villages two instalments, viz., three-fifths on the 15th January and two-fifths on the 15th February. Supplementary settlement – One instalment on the 15th March. Revenue is payable to the mauzadar in whose jurisdiction the estate is situate, if the estate is not amalgamated with mauza in which it is situate, the revenue is payable direct to Treasury. Revenue is due from mauzadars one months after the instalments, as prescribed above, become due provided that a mauzadar shall not be passed before

the 1st May, to make good balance uncollected by him. At the discretion of the Deputy Commissioner the period of grace may be extended to the 31st May.

PARA II – MISCELLANEOUS LAND REVENUE

Item of revenue	District	Industries
*Fisheries	All district	In each year of the lease:— One-fourth of one year's revenue on 15 th July. Three eights of one year's revenue on 15 th November Three-eighths of one year's revenue on 15 th January The sum furnished as security on the day of sale will be adjusted only against the last instalment payable during the lease.
House-tax	All districts except the Garo Hills.	One instalment in January.
	Garo Hills	One instalment in February.
Elephants	All districts	One-fourth on the day of sale. One-fourth on 15 th December of the 1 st year. One-fourth on 15 th June of the 2 nd year One-fourth on 15 th December of the 2 nd year.
Coal grants	Lakhimpur	Two instalments, half on 30 th January and half on 30 th July.
Gold washing	Ditto	Two instalments, three-fifths on 15 th January and 15 th March
Salt wells	Cachar	One-fourth on the day of sale, three-eighths on 1 st November and three-eighths on 1 st February.

The date of payment of revenue in the Garo Hills and the instalments in which it is paid are—
Regular settlement. – In two instalments, viz., three-fifth on the 15th December and two-fifth on the 15th February.

Supplementary settlement. – In one instalment on the 15th February.

*Substituted for the original columns relating to Fisheries by correctionship No. 25 to the fifth edition of the Land Revenue Manual, vide Dy. No. L.R. 621/33

Separate account notices and Registers

131. Notices under section 65, clause (2) of the Regulation shall be published together with a copy of the application made in the Court of the Deputy Commissioner or Subdivisional Officer and in the police thanas in whose jurisdiction the estate or the greater part thereof is situated, as well as in the conspicuous part of the estate itself or, where the estate is small, of the village nearest to the estate.

A register of separate accounts opened shall be kept by the Deputy Commissioner or other officer duly empowered to dispose of applications for separate accounts.

Vide Forms Nos. 32 and 42.

Fees on application for separate accounts

132. No application for opening separate accounts shall be entertained until the applicant has paid fees at the following rates :—

If the Government revenue on the share does not exceed Rs 1,000 at the rate of 10 per cent upon the revenue.

If the Government revenue on the share exceeds Rs 1,000 at the rates of 10 per cent to Rs 1,000 and 2 per cent on all above that amount.

All fees under this rule shall be levied in court-fee stamps:

Provided that the fees under this rule should not be less than (Substituted vide Notification No. RSS.351/64/101, dated 18th May, 1958) [one Rupees] and that for any fraction of Paise a full Paise shall be levied.

Vide Form No. 33.

Note – See note under section 68 of the Regulation in Part I, Notice of demand has been discontinued in the Assam Valley.

Notices of demand

133. Notices of demand under section 68 of the Regulation shall ordinarily be issued by, and the signature and seal of, the following officers:—

(a) By the Deputy Commissioner with respect to all estates situated within the Sader Subdivision of a district and not included within the limits of any tahsil or mauza.

(b) By the Subdivisional Officer with respect to all estates situated within the limits of a mufassil subdivision, and not included within the limits of any tahsil or mauza.

(c) Tahsildar with respect to all estates situated within the limits of this Tahsil, or by the Sub-Deputy Collector or other officer invested with the power under section 68 of the Regulation.

Mode of service of notice of demand

134. A notice of demand under rule 132 shall be served by delivering to the person to whom it is directed a copy thereof attested by the Revenue Officer who issues it, 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 pasting 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 officer issuing the notice may direct.

Sale proclamation

135. The statement and list of estates to be prepared under section 72(1) and (2) of the Land and Revenue Regulation, in respect of property to be sold under section 70, shall be prepared in the language of the district and may, if the Deputy Commissioner thinks fit be recorded in a book prepared for this purpose, to be called the sale Statement Book. When published in the Gazette, the statement shall also be published in the vernacular of the district and in English.

Vide Form No. 38.

Publication of list of estates

136. (Substituted for old rule by Notification No. 3014-R., dated the 18th November, 1936) The list of estates referred to in the foregoing rule shall be published —

(a) In the Court of the Revenue Officer by whom it has been prepared;

(b) At the office of the Sub-Deputy Collector in whose circle the estate is situated

(c) At the office of the Tahsildar or house of the mauzadar within whose tahsil or mauza defaulting estate lies; and

(d) Where gaonburas are employed, on the signboard of the gaonbura within whose charge the defaulting estate falls;

(e) At the offices of the Gaon Panchayat and the Anchalik Panchayat.

Serving of sale statement

136A. (Inserted by Notification No. 3814-R., dated 18th November, 1936. Added vide Notification No. RSS. 351/64/101, dated 11th May, 1967) The sale statement mentioned in rule 135 shall be served under sub-section (4) of section 72 of the Regulation on the defaulter or, if he can not be found, it shall be pasted on a conspicuous part of the estate.

Right of public to inspect statements under section 72(1)

137. The original or copies of all statements prepared under section 72(1) of the Regulation shall, subject to such rules for the proper care of those documents and the preservation of order as the Deputy Commissioner may from time to time make be open daily (holidays excepted) to inspection by the public, free of charge, at the office at which such statements have been prepared for such two hours during office hours as the Deputy Commissioner may from time to time fix.

Mode of service of proclamation of sale, annulment, etc.

138. Proclamations to tenants of defaulters under section 73, and proclamations annulling settlements issued under section 90 of the Land and Revenue Regulation, shall be published in the language of the district in the Court of the Revenue Officer duly empowered to issue the same, and also at the Circle Sub-Deputy Collector's office, the house of the mauzadar, (the offices of the Gaon Panchayat and Anchalik Panchayat) and the village public notice-board or, in the Cachar district, at the police thanas and tahsils, other than thanas and tahsils situated at the headquarters of a district or subdivision, in whose jurisdiction the defaulting estate or the greater part thereof is situated, and copy of the same shall be pasted upon a conspicuous part of the estate itself or, where the estate is small, of the village nearest to the estate.

Sale procedure when estates are sold

139. When estates are sold in the district of Cachar sales shall, on the day of sale, proceed in regular order, mauza by mauza, or pargana as the Commissioner may direct, the estate to be sold bear by Pargana the lowest number on the tauzi being put up first and so on, in regular sequence the Revenue Officer shall not put up any estate out of its regular order by number except where it may be necessary to do so under section 77 of the Regulation.

Notice of re-sale

140. No notice of re-sale under section 78 (2) of the Regulation shall be published until the expiration of three clear days after the day the purchaser has defaulted, and if the payment or tender of payment of the arrear on account of which the estate or share was first sold, and of any arrear which may have subsequently become due, shall be made by or on behalf of the proprietor or settlement-holder of the estate or share before sunset of the third day, the issue of the notice of re-sale shall be stayed.

Purchase of defaulting estates by the State Government

141. Where a defaulting estate is put up for sale for arrears of revenue due hereon, if there be no bid, the Revenue Officer conducting the sale may purchase the estate on account of the State Government for one rupee or, if the highest bid be insufficient to cover the arrear due, may purchase the estate on account of State Government at the highest amount of bid.

Note. (Inserted by C.S. No. 17 to the fifth edition of this Manual, vide Collection Revenue, A, December 1934, Nos. 7-63) – This applies to an estate sold for its own arrears and does not apply to an estate sold for purpose of recovering arrears not its own. The sale of such an estate is governed by section 91(1) of the Regulation.

Sale certificate

142. The sale certificate referred to in section 85 of the Regulation shall be written on stamped paper of the proper value to be supplied by the purchaser at his own expense.

If the purchaser has failed to supply stamped paper of the proper value, the Deputy Commissioner shall supply it and shall recover the value from the purchaser as an arrear of land-revenue.

Vide Form No. 39.

Notice of transfers of estates

143. All transfers of estates or shares of estates by sale under the provisions of Chapter V of the Regulation shall be notified by the Deputy Commissioner or Subdivisional Officer by written proclamation in his own office and at the Circle Sub-Deputy collector's office, the house of the Mauzadar [the offices of the Gaon Panchayat and the Anchalik Panchayat] and the village public notice-board or in the Cachar district, at the police thanas and a tahsils, other than thanas and tahsils situated at the headquarters of the district or subdivision, within whose jurisdiction the estate or a greater portion thereof is situated.

Mode of delivery of possession of estate to suction purchaser

144. (a) The Deputy Commissioner, or other officer duly empowered shall order delivery of possession of any estate, or any share or any particular lands of an estate, sold under the provisions of Chapter V of the Regulation to be made by proclamation to the tenants and other persons on the estate by beat of drum or in such other mode as may be customary and by affixing a copy of the sale certificate in some conspicuous place of the estate or the particular lands purchased, or where the estate is small, of the village nearest to the estate.

(b) In any case in which a whole estate any particular lands of an estate shall have been sold free of incumbrances in accordance with the provisions of section 71 of the Regulation, the purchaser may apply to the Deputy Commissioner (or other officer duly empowered) for actual possession of the property, naming the persons to be evicted and specifying the land from which they are to be evicted. Thereupon the Deputy Commissioner (or other officer) shall notify the persons to be evicted and if, after hearing the parties and such further inquiry as he may think necessary; he is satisfied that the land specied appertains to the property sold and that the persons to be evicted are not protected by any of the provisions and section 71 of the Regulation, he shall order possession to be delivered to the applicant by removing such persons (or any of them) from the land.

Application of annulment of sales

145. (Vide Assam Land and Revenue Regulation (Amendment) Act 1963 (Assam Act No. XXII of p962) (1) (1) An application under section 81 of the Regulation may be made to the (Deleted vide notification No. RSS 351/64/101, dated 18th May 1967) [Board.]

Demand certificate

146. The demand certificate referred to in section 91(2) of the Regulation shall be in form No. 40.

Sales of moveable property where to be he

147. Sales of moveable property shall ordinarily be made on the spot, but in the case of any such property the Revenue Officer duly empowered to order sales may direct that the shall be held at any other place, if he has reason for thinking that higher price will thereby be realised.

Note – (Certain executive instructions on the subject of this rule were issued in Circular No. 2R., dated the 30th May 1908, which have been inserted under section 90 of the Regulation as a Note.) – When the value of the property attached will not exceed (Substituted vide notification No. RSS 351/64/101, dated 18th May 1967) [one hundred rupees] the order and notice issued under section 69 should provide for sale, if he arrear is not paid up immediately upon attachment, and should be in Form No. 31. The sale should be conducted under the following conditions:—

(1) In non-tahsil areas the sale must be conducted in the presence of the mauzadar and of two respectable residents of the locality, who will sign the peon's report of the sale. In tahsil areas the peon's

report will similarly be signed by two respectable residents of the locality. In the Assam Valley these peons should, as a rule, be village gaonburas.

(2) All sale-proceeds will be made over by the peon to the nazir, or in tahsils to the tahsilders who will arrange for payment of the revenue and for the transmission of any balance to the defaulter.

(3) The peon will invariably give a printed counterfoil receipt for the realisations of the sale.

These orders do not apply to sales of moveable property in cases where the value of the property attached will exceed (Substituted vide notification No. RSS.351/64/101, dated 18th May 1967) [one hundred rupees]. In such cases the procedure laid down in Executive Instruction 93 should be followed.

Sales for arrears less than four annas prohibited

148. No defaulting estate or immoveable property of a defaulter shall be sold for an arrear which is less than twenty-five paise.

Annulment of settlement

149. The settlement of an estate in which the settlement-holder has a permanent, heritable and transferable right of use and occupancy may be annulled with the sanction of the Commissioner:

Provided that an appeal shall lie to the Board in all cases of such annulment within two months of the date of the Commissioner's order.

150. (1) Whenever settlement of an estate in any of the plains districts of Assam is annulled under section 90 of the Assam Land and Revenue Regulation, a notice will be issued to the defaulter requiring him to vacate the land and remove therefrom any buildings erected or crops planted or sown by him within 15 days. Intimation will at the same time be given to the mandal of the circle of the annulment of the settlement and of the issue of the notice.

(2) On the expiration of the period of 15 days a peon will be deputed with mandal of the circle and the gaonbura to take possession of the land.

(3) If, after settlement of any land has been annulled on account of arrears, the defaulter or any one acting on his behalf refuses to comply with a notice requiring him to vacate the land (he shall be evicted forthwith and if he obstructs any officer deputed to take possession of the land or re-enters without permission, land from which he has been ejected, the offender will be prosecuted under the appropriate section of the Penal Code.

SECTION II

SPECIAL RULES FOR THE RECOVERY OF ARREARS OF LAND-REVENUE DUE FROM TEMPORARILY-SETTLED ESTATES INCLUDED IN THE JURISDICTION OF MAUZAS

Operation of rules 152 to 158

151. Rules 152 to 158 inclusive shall apply to the realisation of arrears due on lands the revenue of which is paid through the mauzadar.

List of defaulters

152. A mauzadar may, after an arrear has fallen due in his mauza, file a defaulters' list in the Court of the Deputy Commissioner or Subdivisional Officer:

Provided that no defaulters' list shall be entertained under this rule if it relates to arrears of revenue accruing earlier than in the two revenue years previous to the preceding 30th June.

Vide Form No. 41

Note – The Commissioner may, in special cases, at his discretion relax the rule requiring the prepayment of process fees in bakijai cases by mauzadars. In all such cases the process-fees should ultimately be realised from the mauzadars, whether they are successful in collecting them from the raiyats or not: provided that in special cases and with the Commissioner's sanction mauzadars may be exempted from such payment.

Order to attach property

153. On receipt of the defaulters list as prescribed in rule 152 the Deputy Commissioner or Subdivisional Officer shall issue an order to the Nazir to attach such moveable property of the defaulter as the mauzadar may point out and to send in to the Deputy Commissioner or Subdivisional Officer a list of the property attached. AT the same time that the Nazir attaches property under this rule, he shall serve a sale notice on the defaulter.

Vide Forms Nos. 34 A and 35

Order to sell property

154. Should the defaulter, after attachment of moveable property, still fail to pay in the arrear with costs, the Deputy Commissioner or Subdivision Officer shall, on receiving a report to that effect from the mauzadar, issue an order to the Nazir, to sell the property attached if the arrear is not paid before the date fixed for sale.

The mauzadar's report under this rule shall be stamped with court-fee stamps equivalent to the process fees required by the rules issued under section 155 (b) of the Regulation.

See note to rule 147 and also Form No. 36

Sale defaulting estates

155. If the mauzadar is of opinion that the process provided for in these rules is not sufficient for the recovery of the arrear, he may, if the arrear has accrued in respect of an estate in which the settlement-holder has a permanent heritable and transferable right of use and occupancy, apply to the Deputy Commissioner to order the attachment under section 69A, or the sale of the estate itself, subject to the provisions of section 74 of the Land and Revenue Regulation:

Provided the arrear has accrued not earlier than in the two revenue years referred to in the provisions to rules 152 and 156 and, where action under section 69 of the Assam Land and Revenue Regulation is taken by or at the instance of the mauzadar, the application is made within three months of the termination of the proceedings under section 69.

Mauzadars may order attachment of defaulter's moveable property

156. Notwithstanding any thing contained in the foregoing rules a mauzadar, who has been invested with the powers of a Deputy Commissioner under Section 69 of the Assam Land Revenue Regulation, may order the attachment of the defaulters moveable property subject to such conditions and restrictions as the State Government may direct in this behalf:

Provided that no such order shall be issued in respect of arrears of revenue accruing earlier than in two revenue years previous to the preceding 30th June.

Note – Under this rule the State Government have issued the following orders laying down the conditions and restrictions referred to in the rule:—

The order of attachment of moveable property to be issued by mauzadars shall be in Form No. 34 B and shall be in duplicate and counterfoil. Printed forms will be supplied in bound books serially numbered to

mauzadars who have been invested with the powers of a Deputy Commissioner under Section 69 of the Assam Land and Revenue Regulation. Before issue of an attachment order the court-fee of one rupee must be affixed across the joint of the two copies, and the second half cut off through the middle of the stamp. This will be forwarded, with the list of the persons to whom orders are to issue, to the Deputy Commissioner by special messengers or in a registered cover. After this has been done, the mauzadars will be at liberty to issue the orders over his own signature by a special peon who should be deputed from the nazarat for the purpose. If no permanent peon is available for the work, the Deputy Commissioner may appoint a person nominated by the mauzadars to act as attaching peon, an arrangement which will obviate the necessity of sending one of the mauzadars men to point out the property to be attached. The case of all raiyats who do not pay their revenue on attachment must be reported for the orders of the Deputy Commissioner or the Sub-Divisional Officer, no sale being held by the mauzadar himself otherwise than in accordance with authority given to him under rule 158.

Staying of sale on payment of arrears

157. If at any time before the property is sold under rule 154 or 155 the defaulter pays the arrears due with the prescribed penalty or fee and costs, the sale will be stayed: provided that the payment is made either to the mauzadar in sufficient time to admit of the fact of the payment being reported to of the officer who will conduct the sale before the date fixed for the sale or directly to the officer who will conduct the sale.

Sale of moveable property not exceeding Rs 20 in value

158. The Deputy Commissioner may empower any mauzadar who has been invested with the powers of a Deputy Commissioner under Section 69 of the Assam land Revenue Regulation to sell any moveable property not exceeding Rs 20 in value attached by him, or under his orders, under rule 156. Such sale shall be held by the mauzadar personally in the village in which the defaulter resides or, if the property can be conveyed there without incurring additional cost, at the nearest that, in accordance with such directions as the State Government may issue from time to time.

Procedure when waste land grantees, settlement-holders paying revenue direct and Mauzadars become defaulters

159. When a grantee of a waste land grant or any settlement-holder of land not amalgamated with the mauza within which it is situated, and who pays land revenue to the Treasury direct, becomes a defaulter, the Deputy Commissioner or Subdivisional Officer shall issue upon him a notice of demand and, if the arrear due is not paid up within the period specified in the notice, shall proceed further against him according to the provisions of the Land and Revenue Regulation as if he were a defaulter.

An attachment order will issue without the previous issue of a demand notice against any mauzadar whose revenue is outstanding on the 1st June.

Vide Form No. 33

159A. The rules in this section shall apply to sarbarakhers working on behalf of mauzadars who are minors.

(Substituted for old Sections III and IIIA by Notification No. 4725-R., dated the 7th September, 1939)
SECTION III

SPECIAL RULES FOR THE RECOVERY OF ARREARS OF LAND-REVENUE DUE FROM TEMPORARILY-SETTLED ESTATES INCLUDED IN THE JURISDICTION OF TAHSILS IN THE DISTRICTS OF THE ASSAM VALLEY DIVISION AND CAHCAR EXCLUDING KARIJGANJ SUBDIVISION

Bakifajil statement

160. (Substituted for the old rule 160 by Notification No. RR. 80/42/17 dated the 14th September, 1942) In the Assam Valley the tahsildar shall prepare a bakifajil statement immediately after the 2nd or the last kist prescribed for such estate. In Cachar the tahsildar shall prepare a statement immediately after each kist.

Vide Form No. 122.

Attachment of moveable property on preparation of bakifajil statement

161. On the preparation of the (The words "bakifajil statement" were substituted for the words "defaulters' list" vide Notification No. RR. 80/42/17, dated the 14th September, 1942) bakifajil statement the tahsildar shall himself attach, or shall issue an order to the tahsil nazir for the attachment of, the moveable property of the defaulter. A sale notice shall be served on the defaulter at the same time,

Vide Forms No. 34A and 35.

Order of attachment and sale of moveable property

162. Should the defaulter after attachment of moveable property still fail to pay in the arrear with costs, the tahsildar shall proceed to sell, or cause the sale of, the property attached if the arrear is not paid before under this rule and before the date fixed for sale, the arrear with cost is paid the tahsildar shall see that a certificate to that effect is placed with the record:

Provided that where the value of the property attached does not exceed Rs 20, the property shall be liable to be sold if the arrears with costs are not paid up immediately upon attachment. In such cases the procedure prescribed in rule 147, Chapter V, Part II, shall be followed.

See note to rule 147 and also Form No. 36.

Moveable property not to be sold for an unduly low price

163. The tahsildar shall be responsible that, as far as this in his power, attached property shall not be sold for an unduly low price. He shall take special orders from the Deputy Commissioner in all cases of difficulty, and in the event of the property being sold for an apparently inadequate sum, he shall report the matter to the Deputy Commissioner who may cancel the sale or pass such other order as the latter thinks fit.

Sale of defaulting estates

164. If the tahsildar is of opinion that the process provided for in these rules is not sufficient for the recovery of the arrear he may, if the arrear has accrued in respect of an estate in which the settlement holder has a permanent heritable and transferable right of use and occupancy apply to the Deputy Commissioner to order the sale of the estate itself, subject to the provisions of section 74 of the Land and Revenue Regulation.

165. If a settlement-holder tenders payment of an arrear due from him after it has accrued, payment shall be accepted on payment of the following amounts as penalty or fee, as the case may be, (in cash or) (Inserted vide Government Notification No. R.L.R. 129/64/35. dated 8th January 1968) in court-fee stamps, to be affixed to the chalan tendering payment:

(a) If paid before issue of attachment order 50 paise-Penalty under Section 68 (1)

(b) If paid after issue of attachment order Re 1.00 – Penalty under Section 68(1)

(c) If paid after issue of proclamation of sale Re 1.00 – Fee under Section 75, in addition to penalty under Section 68(1):

Provided that, if the arrear does not exceed fifty paise the penalty leviable under clause (a) or clause (b) shall in no case exceeds fifty paise.

166. The officer in charge of a tahsil shall have all the powers of a tahsildar

SECTION IV

SPECIAL RULES FOR THE RECOVERY OF ARREARS OF LAND REVENUE DUE FROM PERMANENTLY SETTLED ESTATES

Land-revenue where to be paid

167. The proprietors of permanently settled estates in the Goalpara district shall unless the Commissioner shall otherwise direct pay land-revenue direct to the Treasury of the subdivision in which their estates are situate. If an estate is situated within more than one tahsil or subdivision, the Deputy Commissioner shall determine to what tahsil or subdivisional Treasury the revenue shall be payable.

Application for sending copies of statement by post

168. (1) A proprietor desiring to register his name under section 72(5) of the Regulation with a view to having copies of statements prepared under section 72 sent to him by post, shall present to the Deputy Commissioner or Subdivisional Officer an application with a stamp of the value of Rs 2.00 (as a registration fee).

(2) If the application is admitted, the name of the application shall be entered in the register and a copy of the entry shall, if he then desires it, be given to him free of charge.

(3) Every such registration shall hold good for five years from the date on which it is made and shall then become void.

Vide Forms Nos. 43 and 44.

169. If payment of an arrear is tendered by, a defaulter after it has accrued, payment shall be accepted on payment of the following fees [in each or] (Inserted vide Government Notification No. RLR, 3129/653 dated 8th January, 1968) in court fee stamps to be affixed to the chalan tendering payment:—

(a) If paid before issue of proclamation of sale of defaulting estate under Section 72, Rs 1.00 – Penalty under Section 68 (1).

(b) If paid after issue of proclamation of sale of defaulting estate under Section 72, Rs 2.00 – Fee under Section 75, in addition to the penalty under Section 68(1).

SECTION V

SPECIAL RULES FOR THE RECOVERY OF ARREARS OF LAND REVENUE IN KARIMGANJ SUBDIVISION OF CACHAR DISTRICT

170. The following rules are substituted in the Karimganj Subdivision of Cachar District only for rules 130, 135, 136, 137, 138, 148, 160, 161, 162, 163, 164, 165, 166 and 167 of the rules made under Chapter V of the Assam Land and Revenue Regulation:

Land Revenue when to repaid

(1) Every sum payable on account of land revenue shall fall due on the dates specified in Appendix 1 and shall be payable in such manner and in such instalments as therein prescribed before sunset of the due dates.

When land-revenue falls due on a Sunday or authorised holiday, the first open day after such Sunday or holiday shall be taken as the date on which the revenue fell due.

Sale proclamation

(2) The statement to be prepared under section 72(1) of the Land and Revenue Regulation in respect of property to be sold under section 70, shall be prepared in the language of the district, and may if the Deputy Commissioner thinks fit, be bound in a book to be called the Sale Statement Book.

Vide Form No. 37A

Publication of sale statement

(3) The tahsildar will post a carbon copy of the sale statement after striking out the estates (if any) which are not to be sold and not therefore to be advertised for sale, in a glazed frame prepared and kept for the purpose at the Subdivisional office. The officer posting the copy in the glazed frame will certify on it that he has done so on a date named, and sign and date the certificate.

If the tahsil is not situated at the headquarters of the subdivision, he will post a copy of his tahsil where the revenue of the estates is paid and send a certificate of posting to the officer ordering the sale. He will at the same time forward a copy to be posted at headquarters and it will be the duty of the head quarters tahsildar to see that a copy is properly posted at head quarters. When any one of the estates advertised for sale is not situated within the jurisdiction of the thana at the headquarters of the subdivision, the person entrusted with the service of the sale notice will go to thanadar, hand over to him a carbon copy of the sale statement used as list of estates advertised for sale and get his certificate. The officer in charge of the thana, on receipt of the copy will paste it on his notice-board. A copy of the sale statement made by means of carbon paper for use as list of estates advertised for sale, must be posted at the Subdivisional officer, at the tahsil and at the thana, thirty days before the date of sale.

If the tahsildar finds that he cannot readily determine the thana or the thana within the jurisdiction of which the estate is situated a copy of the sale statement used as list under section 72(2) of the Regulation will be published at whatever thana he deems most suitable for the purpose of publication.

Vide Forms Nos. 37A and 37B.

Right of public to inspect sale statements

(4) The originals or copies of all statements prepared under section 72(1) of the Regulation ordinarily be opened daily (holidays excepted) for inspection by the public, free of charge, at the tahsil office, from 2 p.m. to 4 p.m. The inspection will be made in the presence of the Tahsildar or his assistant. No one will be allowed to remove the statements from the place where they are kept, or in any way to alter or erase any part of them or record anything on them. Persons requiring information may take notes or copies in pencil.

Mode of service of sale notice

(5) Simultaneously with the posting of copies of the sale statement used as list of estates advertised for sale, under section 72(2) of the Regulation the tahsildar will (where necessary) make copies of those entries in the sale statement of which a copy is required to be despatched by post to such proprietors as have registered their names for the purpose under section 72(5) of the Regulation. In the case of defaulting estate not being a permanently-settled estate, the tahsildar will make two copies of the entry by means of carbon paper, one copy to be made over to the defaulter or if he cannot be found, pasted on a conspicuous part of the estate under section 72(4) of the Regulation, and the other copy for the defaulter's receipt or certificate of service to be recorded and filed with the sale record. This certificate shall be attested by at least two witnesses.

Publication of notices issued to tenants of defaulters and proclamation annulling settlement

(6) Notices to tenants of defaulter under section 73 of the Regulation will be published only for estates paying more than Rs 50.00. These notices and proclamations annulling settlements issued under section 90 of the Regulation will be published in the language of the District in the Court of the Revenue Officer

duly empowered to issue the same, and also at the police thanas and tahsils, other than the thana and tahsils situated at the headquarters of the subdivision, in the jurisdiction of which the defaulting estate or the greater part thereof will be pasted on a conspicuous part of the estate itself or,

Where the estate is small, of the village nearest to the estate. In the case of a temporarily-settled estate, arrangement should be made to issue the notices under section 73 along with the notice under section 72(4), only one set of process fees being charged for both the notices. Each set of notice under section 73 will be prepared in duplicate by means of carbon paper for each estate, one copy being posted as stated above, and on the other the certificate of posting should be recorded and filed in the office to form part of the sale record in the same way as certificates are to be entered in the case of the service of notice under section 72(4) on defaulters. If the revenue of any estates falls below Rs 50.00 by the opening of separate accounts, no such notice need be issued.

Vide Form No. III.

Attachment and sale of moveable property

(7) (i) After an arrear has accrued in respect of a temporarily-settled estate which is not liable to sale under section 70 of the Assam Land and Revenue Regulation at the first instance for arrears of revenue, the tahsildar will issue an order to the nazir to attach such moveable property of the defaulter as may be pointed out to him, and to send to the tahsildar a list of the property attached. At tahsils where there is no nazir, the tahsildar will himself attach such moveable property of the defaulter as may be pointed out to him. At the same time that the nazir or tahsildar (when there is no nazir) attaches the property under this rule, he will serve a sale notice on the defaulter.

(ii) Should the defaulter after attachment of moveable property still fail to pay in the arrear with cost, the tahsildar will issue an order to the nazir for the sale of moveable property of the defaulter or, where there is no nazir, will himself proceed to sell the property attached, if the arrear is not paid before the date of sale. If after the issue of a sale order under this rule and before the date fixed for sale the arrear is paid, the tahsildar will see that a certificate to that effect is placed with the record.

(iii) The tahsildar will be responsible that as far as lies in his power attached property is not sold for an unduly low price. He will take special orders from the Subdivisional Officer in all cases of difficulty and in the event of the property being sold for an apparently inadequate sum, he will report the matter to the subdivisional officer who may cancel the sale or pass such other orders as he thinks fit.

(iv) If the Tahsildar is of opinion that the process provided for in these rules is not sufficient for the recovery of the arrear, he may, if the arrear accrued in respect of an estate in which the settlement-holder has a permanent, heritable and transferable right of use and occupancy apply to the Deputy Commissioner to order the attachment, and necessary the sale of the estate itself, subject to the provisions of section 74 of the Land and Revenue Regulation. No defaulting estate or immoveable property of a defaulter shall be sold for an arrear which is less than twenty-five paise.

Vide Form Nos. 34, 35 and 36.

Fees on payment of arrears after defaulters list has been drawn up

(8) (Substituted for the old one by the Revenue Department Notification No. RR. 34/50/15, dated 23rd February, 1951) If the settlement-holder of a temporarily settled estate tenders payment of an arrear due from him after it has accrued payment shall be accepted on payment of the following fees (in cash or (Inserted under Government Notification No. RLR. 129/64/35, dated 8th January, 1968) in court-fee stamps to be affixed to the chalan tendering payment:

- (a) If paid before issue of process for recovery of the arrear, 50 paise penalty under Section 68(1).
- (b) If paid after issue of process for recovery of the arrear, Re 1 penalty under Section 68(1).

(c) If paid after issue of sale proclamation, Re 1 fee under Section 75, in addition to the penalty under Section 68(1).

Provided that, if the arrear does not exceed fifty paise the penalty leviable under clause (a) or clause (b) shall in no case exceed fifty paise.

Payment of land-revenue to the Tahsildar

(9) The proprietors of permanently-settled estate and the settlement-holders of temporarily-settled estates shall pay land-revenue to the Tahsildar of the tahsil within whose Jurisdiction their estates are situated. If an estate is situated within more than one tahsil, the Deputy Commissioner shall determine to which tahsil the revenue shall be payable:

Provided that, if the revenue of any estate is not paid to a Tahsildar in sufficient time to admit of the fact of payment being reported to an officer proposing to sell such estate on account of the non-payment of such revenue before the day fixed for the sale, payment must be made to the officer holding the sale or any person authorised to receive such revenue on his behalf.

Erection of notice boards

(10) (i) The Deputy Commissioner will cause to be created a sufficient number of notice-boards in convenient situations throughout the portions of the district which are permanently-settled. Every such board will have a number painted on it, by which it will be known, and the Deputy Commissioner will cause to be prepared lists of the notice-boards situated in the subdivision, indicating approximately the situation of the same.

The notice-boards will ordinarily be arranged parganawari, all the estates of one pargana will be pasted on one or more notice-boards in that pargana as may be thought necessary. The estates of two parganas will not ordinarily be pasted on one notice-board.

(ii) The Deputy Commissioner, with the previous sanction of the Commissioner, may from time to time, alter the number and situation of notice-boards, but no such alteration will be made until two months' notice of the same has been given by a proclamation posted at the subdivisional office, and on each notice-board affected thereby.

(iii) The original or a copy of every list of notice boards prepared and for the time being in force will be open to inspection by the public free of charge in the same manner as the sale statement referred to in sub-rule. (4) of this rule.

CHAPTER VI

RULES UNDER SECTIONS 114, 121 AND 155, RELATING TO THE PARTITION AND UNION OF ESTATES

Application to be verified and signed

171. Applications for partition (perfected and imperfect) shall be made and shall be verified and signed by the applicant or by an agent duly authorised by him in that behalf.

Vide Form No. 45.

Fees payable for notice

172. The fees or other cost in respect of service of notices or publication of proclamations under section 99 or 116 of the Land and Revenue Regulation shall be paid either with the application or within such time as may be allowed by the Deputy Commissioner or Subdivisional Officer, failing which the application will be rejected.

Vide Form No. 46.

Estimates of cost of partition

173. As soon as possible after the issue of an order under section 102 directing the partition to be made, the Revenue Officer authorised to make partition will prepare an estimate of cost and submit it of the Deputy Commissioner for approval.

Vide Form No. 47.

Costs by whom and when paid

174. The estimated cost of survey and partition shall be paid by the applicant and other sharers in proportion to their respective shares within the period allowed, which shall not be less than 30 days or more than 60 days from the date of the approval of the estimate by the Deputy Commissioner.

Vide columns 9 and 10 of Form No. 47.

Realisation of unpaid costs

175. If the applicant pays his share of costs but the other sharers do not pay, the Revenue Officer authorised to make the partition shall, under section 144 of the Regulation, realise the cost rateably from the defaulters under section 69.

Recovery of costs in excess of estimates

176. Should the actual cost of survey and partition finally exceed the cost paid under the preceding rule, the extra cost shall be realised rateably from the applicant and other proprietors or land-holders of the estate, and until such costs shall have been realised, no final order of partition shall be passed.

Refund of excess payments

177. Any excess cost deposited by the parties shall be refunded to them by the Revenue Officer authorised to make the partition, provided that application thereof is made within one year from the final confirmation of the partition, after which the amount will lapse to the State Government.

Limit placed on cost of partition

178. The cost of survey and partition shall ordinarily not exceed the following rates:—

(a) If the area of the estate to be partitioned does not exceed 200 acres, at Rs 60 per 100 acres with a minimum of Rs 2

(b) If it exceeds 200 acres, but does not exceed 400 acres, the first 200 acres at Rs 60 and the remainder at Rs 50 per 100 acres.

(c) If it exceeds 400 acres, but does not exceed 600 acres, 200 acres at Rs 60, 200 acres at Rs 50 and the remainder at Rs 40 per 100 acres.

(c) If it exceeds 600 acres, 200 acres at RS 60, 200 acres at rS 50, 200 acres at Rs 40, and the remainder at Rs 25 per 100 acres.

Final order is Instrument of Partition chargeable with stamp duty

178A. (Inserted by C.S. No. 81 to the fifth edition of the Land Revenue Manual) The final order sanctioning the partition an Instrument of Partition and is chargeable with stamp duty under Article 45, Schedule I to the Indian Stamp Act, 1899. The order shall be duly stamped before proclamation under section 116 of the Assam Land and Revenue Regulation issues.

Note – Under section 27 of the Indian Stamp Act the Instrument of Partition must contain all facts and circumstances affecting its chargeability. It is open to the officer sanctioning partition either to send the final partition papers to the proper officer for affixing impressed labels or to draw up the final partition on impressed stamp paper as may be convenient.

Application be presented by the applicant or by any person duly authorised by him in writing in that behalf

179. The application for union of estates may be presented by the applicant or by any person duly authorised by him in writing in that behalf.

Vide Form No. 48.

Registers

180. The following registers shall be kept in the office of every Deputy Commissioner and Subdivisional Officer:—

- (1) Register of applications for Perfect Partitions of Estates.
- (2) Register of Applications for Imperfect Partition of Estates
- (3) Register of Union Estates.

Vide Form Nos. 49, 50 and 51.

CHAPTER VII

RULES UNDER SECTIONS 129, 152 AND 155 (b) AND (c) RELATING TO PROCEDURE THE MODE OF SERVING PROCESSES AND PROCESS-FEES

Judicial procedure in revenue cases

181. No provisions of the Code of Civil Procedure, and of enactments amending the same relating to the trial of suits, the evidence and examination of witnesses, procuring the attendance of witnesses and the production of documents, shall apply to all proceedings of a judicial nature, other than appeals, held before a Deputy Commissioner or other Revenue Officer or a Settlement Officer duly empowered to hold such proceedings.

For the purposes of this rule, the following proceedings under the Land and Revenue Regulation shall be regarded as proceedings of a judicial nature:—

- (a) Proceedings in connection with boundary disputes (section 23).
- (b) Proceedings in connection with disputes relating to the record-of-rights (sections 41 and 42).
- (c) Resumption of proceedings (section 43)
- (c) Proceedings in connection with application for mutation and registration of names (sections 53 and 54).
- (e) Proceedings in connection with applications for registration of talukdari and other similar tenures (section 56).
- (f) Proceedings in connection with applications for separate accounts (section 65).
- (g) Proceedings arising out of the attachment or sale of moveable or immoveable property, or of applications to set aside sale under Chapter V.
- (h) Proceedings in connection with the partition or union of estates under Chapter VI.

(i) Any other proceedings expressly declared by rules issued under the provisions of the Land and Revenue Regulation to be judicial proceedings.

Award of costs

182. In all judicial proceedings held under the Regulation, the Court may award such costs as it thinks fit and may determine by whom they are to be paid and where there are several persons liable, the amount to be paid by each.

Executives procedure

183. In proceedings other than those mentioned in rule 181 witnesses shall not be examined on oath and a memorandum only of their evidence shall be written and recorded. Such memorandum shall be written and signed by the Revenue Officer who examines the witnesses, and may be written in the language of the Court or in English, if the Revenue Officer is sufficiently acquainted with English.

Note – In virtue of section 141, clause (2), witnesses may be punished for giving false evidence even though they have not been examined on oath.

Power of Deputy Commissioner and Subdivisional Officer to distribute work

184. A Deputy Commissioner or Subdivisional Officer shall not, under section 129 of the Land and Revenue Regulation, refer any case for investigation or report to a Revenue Officer of lower rank than a Tahsildar, mauzadar or Sub-Deputy Collector nor shall he direct any Revenue Officer below such rank to deal with, and to investigate and report on, any case or class of cases without reference.

Appeal procedure and register

185. No appeal petition shall be entertained that is not properly stamped or accompanied by a certified copy of the order appealed against.

A Register of appeals shall be kept in every Revenue Appellate Court.

Vide From No. 52

Mode of service of processes

186. Except where otherwise directed by the Land and Revenue Regulation or by Rules issued thereunder, the provisions of the Civil Procedure Code and of enactment amending the same shall apply to the issue, service, and return of processes on parties and witnesses in any revenue case, appeal or investigation pending before a Revenue Officer or a Settlement Officer.

Fees on Judicial processes

187. Fees on processes which are issued by Revenue Officers or Settlement Officers in cases under the Tenancy Acts and in cases of a judicial nature as defined in rule 181, shall be charged for in accordance with the rules framed by the High Court of (Assam and Nagaland) (Under the authority of the Assam High Court Order, 1948 the rules framed by the Calcutta High Court under clause (1), section 20 of the Court Fees Act are still being followed by the Assam High Court) Under Clause (i), section 20, of the Court-fees Act, VII of 1870, and confirmed by the State Government.

(Substituted for the old reference to the High Court's General Rules and Circular Orders, vide Revenue Department File No. RR. 34/44) Vide Part V, Chapter 26 of the High Courts' Civil Rules and Orders' 1935, Volume I.

Fees on Executive processes

188. The following rules relate to fees chargeable on executive processes –

(a) Except where otherwise directed in any rule issued under the Land and Revenue Regulation, fees on executive processes shall be charged at the uniform rate of one rupees on every warrant, and at the same rate on every summons notice, proclamation or order issued:

Provided that, when processes of any kind other than warrants are to be served or executed in the same case and at the same time on more persons than one, the fee leviable shall be twenty five paise for each such person subject to a minimum of one rupees and a maximum of Rs 2.50 paise for all processes. No fee shall be charged on notices inviting claimants to property pledged as security by mauzadars.

(b) An order calling upon a mauzadar or Tahsildar for report, or informing them of orders passed in any case by a Revenue Officer, is not a process within the meaning of this rule, and no fee shall be charged on such orders.

(c) In the Subdivision of Karimganj where during the rainy season travelling except by boat is impracticable, the State Government shall defray all charges on account of boat hire or ferrytoll, where such toll, is legally eligible but in consideration of this the fees leviable under these rules shall be increased by 50 per cent from the 1st June to the 30th November. The Commissioner may extend this rule to any local area in his jurisdiction.

(d) Postal charges, when the process has to be sent by post, shall be defrayed by the State Government.

(e) If a peon is detained at the place of service for more than 24 hours at the request of the person at whose instance the process was issued, or of his agent such person or agent must pay demurrage at thirty one paise a day, and in the districts of Lakhimpur and Sibsagar at thirty seven paise a day.

(f) Processes issued by, or at the instance of a Revenue Officer other than a mauzadar acting in his official capacity, shall be served in the first instance free of charge, but the fees chargeable under this rules shall be levied from the parties to the case, according as the Revenue Officer disposing of the case may determine. The fees so recovered shall be attached in court fee stamps to the Nazir's report of recovery of the fees:

Provided in special cases processes may be issued at the instance of a mauzadar with out pre-payment of process-fees.

(g) In respect of each peon necessary to ensure safe custody of attached property when he is left actually in charge, a daily fee of thirty one paise and in the districts of Lakhimpur and Sibsagar a daily fee of thirty seven paise shall be charged.

(h) In cases where a demurrage fee, or a fee for the safe custody of property, is leviable under clause (e) or (g) of this rule the additional fee which may become payable after process has issued shall be paid by filing a written requisition to the Revenue Officer who issued the process to receive the fee, which document shall bear on its face stamps equivalent to the additional fee, with a memorandum of the purpose for which it is paid.

(i) Applications for refund of process-fees paid under these rules shall not be entertained unless preferred within one year of the date on which the fees were paid.

(j) All fees for executive processes shall be prepaid in stamps, whenever possible to be affixed to the application for issue of processes. Where postponement is unavoidable, and the fees are paid in stamps, the Nazir shall affix the stamps to his report; if paid in cash, the Nazir on receipt of the amount shall buy the necessary stamps and affix them to the report. In all cases the stamps shall be punched in the presence of, or by, a Revenue Officer:

Provided that in cases in which process fees are remitted by money-order whether singly or with land-revenue or local rates, the fees should be finally credited to the State Government in Treasury accounts as a receipt under the head "XXI;-Administration of Justice-Court-fees rea in ash" The Treasury Officer will note on the money-order coupon the number and the date of the credit and send it forthwith to the Nazir to make a note of payment of the fees in his process register. On the face of the process a note will similarly be made in red ink showing the payment of the amount of process-fees and the number and date of the Treasury voucher.

CHAPTER VIII

RULES FRAMED UNDER SECTION 155 (f) REGULATING THE ENTRY BY MINING LICENSEES ON SETTLED LAND

Conditions of a prospecting license

189. Where the surface or land covered by a prospecting license (Inserted by Notification No. RSS 372/61166, dated the 30th April 1962) or a petroleum exploration License is in the occupation of any person other than the licensee—

(i) The licensee shall not enter upon such land except with the consent of the occupier or, in the absence of such consent, without the written authority of the Deputy Commissioner;

(ii) The license shall not in any way injure any trees, standing crops, buildings, huts, structures or other property of the occupier of any land or of any other person except with the consent of such occupier or person or in the case of his refusal, without the written authority of the Deputy Commissioner.

(iii) The Deputy Commissioner shall not grant authority under clause (i) or under clause (ii) unless he is satisfied that the rights conferred by the license, cannot be exercised except by the grant of such authority;

(iiia) (Added by C.S. No. 19 to the notification on the Land Revenue Manual) On receipt of an application or authority to enter upon any land or to injure any property, under clauses (i) and (ii) the Deputy Commissioner shall immediately publish at his office and on the land concerned a notice that such authority has been applied for.

(iv) The Deputy Commissioner may assess or cause to be assessed any damage or injury which may be done by the licensee to the property to the occupier of the land or of any other person and may pay the amount so assessed to such occupier or other person out of the deposit made by the licensee.

(Added by C.S. No. 19 to the notification on the Land Revenue Manual) In assessing any damage or injury under this clause the assessor may leave out of account the value of any buildings erected or improvements made by the occupier of the land after he has granted consent under clause (i) or (ii), or, in the absence of such consent, after the date of the publication of the notice required by clause (iiia).

Conditions of or mining lease

190. Where the surface of any land covered by a mining lease is in the occupation of any person other than the lessee —

(i) The lessee shall have the liberty and power of the rights granted by the lease: provided that without the consent of the occupier and in the absence of such consent without the written authority of the Deputy Commissioner, he shall not enter into any building or structure, or into any enclosed yard or garden:

(ii) No surface operations shall be carried on in or upon the site of any dwelling house or in such a manner as to injure any buildings structures, property or rights of other persons without their consent or, in the absence of such consent with out the written authority of the Deputy Commissioner;

(iii) The Deputy Commissioner shall not grant authority under clause (i) or (ii) unless he is satisfied that the right conferred by the lease cannot be exercised except by the grant of such authority;

(iiia) (Added by C.S. No. 20 to the notification of the Land Revenue Manual) On receipt of an application for authority to enter upon any land or to injure any property under clause (i) and (ii) the Deputy Commissioner shall immediately publish at his office and on the land concerned a notice that such authority has been applied for;

(iv) No land which is in the occupation of any person other than the lessee shall be used for surface operations if any other land not so occupied is suitable and available for surface operations;

(v) The lessee shall not without the express sanction of the Deputy Commissioner cut down or injure any timber or trees on such land, but may without such sanction clear away any brushwood or undergrowth which interferes with the exercise of the rights granted by the lease;

(vi) The Deputy Commissioner may assess or cause to be assessed any damage or injury which may be done by the lessee to the property of the occupier of such land or of any other person and may order the amount so assessed to be paid by the lessee.

In assessing any damage or injury under this clause the assessor may leave out of account the value of any buildings erected or improvements made by the occupier of the land after he has granted consent under clause (i) or (ii), or, in the absence of such consent, after the date of the publication of the notice required by clause (iiia).

(Added by C.S. No. 20 to the notification of the Land Revenue Manual)

(Vide Government Notification No. RD281/47/43, dated 24th August/1984) CHAPTER IX

RULES FRAMED UNDER SECTION 171 OF CHAPTER X OF THE ASSAM LAND AND REVENUE REGULATION FOR DISPOSAL OF LAND WITHIN THE TRIBAL BELTS OR BLOCKS

1. The disposal of land within the Tribal belts or blocks constituted under the provisions of section 161 of the regulation shall be made in accordance with the provisions of those rules. Settlement of waste land shall be made only with the classes of people, notified under section 160(2) and specified in section 163(2) of the Regulation.

[All powers of the Deputy Commissioner under these rules shall be exercised subject to any general or special orders issued from time to time by the State Government.]

2. In these rules —

[An annual lease means a lease granted for one year only and confers no right in the soil beyond a right of user for the year for which it is given. It confers no right of inheritance beyond the year of issue. It confers no 'right of transfer or sub-letting and shall be liable to cancellation for any transfer or sub-letting even during the year of issue. Provided that the State Government may waive their right to cancel an annual lease and may allow its renewal till such time as the State Government may direct in those cases in which the land is mortgaged to Government or to a State sponsored Co-operative Society".

A periodic lease, except in the case of town land, means a lease granted for a period longer than one year, and in the case of town land, a lease for a period longer than three years Subject to and so far as is consistent with any restrictions, conditions and limitations contained therein, a periodic lease, the term of which is not less than ten years conveys to the lessee the rights of a landholder as defined in the Assam land and Revenue Regulation.]

(Cultivators pertaining to the following classes namely plains tribals, hill tribals, tea garden tribals, Santals, Nepali cultivator-graziers and Scheduled Castes have since been notified as persons entitled to protection, vide Notification No. RD69/46/19, dated the 5th December, 1947) Person entitled, means persons notified under section 160(2)

Waste land means land at the disposal of the Government which the Government has not disposed of by lease, grant or other wise, and which is not included in a forest reserve, or in a forest proposed to be reserved under section 5 of the Assam Forest Regulation, VII of 1891, or in a protected forest constituted under the rules made under the said Regulation, and has not been allotted as a grazing ground under rules framed under section 13 of the Assam Land and Revenue Regulation.

3. Settlement of land under these rules will be only on written application to be made to the Deputy Commissioner, or the Officer empowered in this behalf under section 168 of the Regulation, or any officer specially authorised by the Deputy Commissioner to entertain applications on his behalf. (Deleted vide Notification No. RSS.351/64/97, dated 18th May 1967)
4. On receipt receipt of the application the Deputy Commissioner or an officer deputed by him or the officer empowered in his behalf will enquire into the availability of the land and the claims of the persons entitled to obtain settlement.
5. (Substituted vide Notification No. RSS.351/64/97, dated 18th May 1967) [(1) In making settlement of land the Provisions of Section 163(2) shall be strictly followed and settlement shall be made for each class of people in compact blocks as far as possible. Where compact blocks of 50 bighas or more are available settlement shall be made ordinarily with registered Co-operative Societies formed by actual landless cultivators belonging to the classes of persons notified under section 160 (2) or mentioned in Section 163(2).

(2) When settlement has to be given to individuals, the area shall ordinarily be limited to a bighas to 12 bighas per family according to the fertility of the soil. In given to individuals, preference shall be given in the following order:—

(a) Settlement holders belonging to classes of persons notified under Section 160(2) or mentioned in section 163(2) who have been rendered landless due to flood, erosion or earthquake or due requisition or acquisition of their lands by Government for public purposes.

(b) Landless cultivators belonging to a classes of persons notified under Section 160(2) or mentioned in Section 163(2)

(c) Cultivator of the classes mentioned above having landless than 8 bighas.

Note – (1) A person who holds land less then 8 bighas in his name or in the name of any member of his family shall be eligible to get settlement of only so much of land as shall, together with his existing holding, not exceed 8 or 12 bighas, as the case may be.

Note – (2) In case of tribal communities who live in community house according to tribal customs' all the residents in such community house or Chang need not necessarily be treated as one family, and for the purpose or calculation of the number of families, every five member of the Chang shall be treated as forming one fa mily]

6. All settlement shall in the first instance be on annual lease; the land should be cleared and brought under cultivation except such areas as are required for growing thatch and sun grass for bonafide use of the family or for the grazing of cattle. No annual lease shall be renewed unless this condition is complied with, provided that the Deputy Commissioner may exempt from the operation of this rule case in which he is satisfied that the failure on the para of the settlement holder is due to circumstances beyond his control.
7. Land settled on annual lease may be converted into periodic lease when the conditions prescribed in rule 105 of the Land Records Manual are fulfilled, [and the requisite premium, if any, fixed by the State Government has been paid.]
8. No, land held under annual lease shall be transferred or sublet. If any such land in transferred or sublet in contravention of this rule the settlement shall forthwith be teminated. Provided that if the settlement holder dies during the currency of the lease the heirs of the deceased will inherit for the remainder of the

term. [Provided further that the State Government may waive their right to cancel an annual lease and may allow its renewal till such time as the State Government may direct in those cases in which the land is mortgaged to Government or to a State-sponsored Co-operative Society.]

9. Except in the case of estates mentioned in section 162(3), lands held under periodic lease may be transferred subject to the following condition:—

A land holder may transfer or sublet his holding or any part of it within the belts or blocks only to persons belonging to the class of people notified under section 160(2) or those mentioned in Section 163(2) (i) (b) and (c), [or mortgage the whole or a part of his holding within such belt or block to Government or to a State-sponsored Cooperative Society functioning within such belt or block] If any transfer is made in contravention of this rule the lease shall be cancelled forthwith with the approval of Government and the land holder will forfeit his right and status in respect of the land so transferred.

10. If any person is found in occupation of any annual land otherwise than in accordance with the provisions of these rules he will be liable to eviction forthwith.

If any person other than a person belonging to the classes of persons notified under section 160(2) or mentioned in section 163(2) (a) (b) and (c) is found in occupation of any waste land he will be evicted forthwith.

In the case mentioned above the Deputy Commissioner or officer empowered in this behalf will make a summary enquiry and if he is satisfied that the occupation is unauthorised he will proceed to evict the encroachee forthwith and any structure or crops found on the land will be liable to forfeiture to Government.

11. If any person belonging to the classes of people notified under section 160(2) or mentioned in section 163(2) (a), (b), and (c) is found in occupation of any waste land otherwise than in accordance with these rules he shall be evicted: provided that the Deputy Commissioner or Officer empowered in this behalf may after satisfying himself as to the eligibility of the claim, the bona fide of the occupant and availability of the land, offer settlement of the land in accordance with these rules after realising the back revenue to be assessed from the date of occupation. When evicting a person under this rule the Deputy Commissioner will serve a notice requiring the encroacher to vacate the land within a specified time, and he may, in his discretion, allow or disallow him to remove the structure and harvest the crops within the time so specified.

12. If any person is found in occupation of any land held under a periodic lease otherwise than in accordance with the provisions of these rules he shall be evicted therefrom. For the purpose of eviction the Deputy Commissioner will serve a notice requiring the occupant to vacate the land and to remove all structure or crops standing thereon within such period not exceeding one month as he may think fit. Such notice will be served on one or all of the occupants or if the occupants cannot be found it will be sufficient for the purpose of this rule if the notice is served by hanging at the last place of residence and pasted on the Gaonbura's notice Board and on the land in question.

If the occupant fails to vacate the land or remove the structures or crops as required in the notice the Deputy Commissioner may forcibly enter into and take possession of the land and destroy the structures or crops found thereon.

Any disobedience of orders will be dealt with under section 188, Indian Penal Code.

13. All other matters which are not covered by the above rules will be governed by the relevant rules under the Assam Land and Revenue Regulation.

D K Gangopadhyay
Commissioner & Secretary to the Government of Assam
Revenue Department
May 5, 2003