

BENGAL REGULATION 2 OF 1973

12 T,AND R. F. vs. NIT. REGULATION 2 OF 1793 Ben. (THE BENGAL LAND-REVENUE REGULATION, 1703) SECTION I. 2. 3. 4. 6. 7. 9. 10. 14. 15. 16. 20. 21 24. 25. 26. 33. 34 36. 37. 38. 39. 40. 41. 42. 44

45. CONTENTS Preamble. [Repealed/ Collectors of revenue. Collectors subject to Board of Revenue. Seals of Collectors, Collectors to keep diary. Duties of Collectors. Nature of Duties. Officers to obey orders of Collector. Collectors not to employ private servants in matters. 11 —13. [Repealed.] Reg.2. public In absence of Collector senior Assistant to officiate. Collectors and their officers prohibited being concerned extra officially in revenues. Bonafide purchases of land at private sale by Collectors officers, etc. 17—19. [Repealed Collectors to keep receipts. 23. [Repealed.] Collectors not to exercise authority beyond limits of their zilas without orders. Rule with regard to receipts. Register of receipts for salaries, etc. 27—32. [Repealed.] require personal In what cases Board may attendanc.e. 35. [Repealed.] Powers of Board as to settlement of lands held khas. Security for payment of revenue. Remissions. Settlements to be made by Collectors. Procedure on settlement being concluded. Collection of revenue. Temporary suspensions. 43. •Remissions of balances. [Repealed]. Duty of Board to furnish accounts, etc. 46—70. [Repealed.] 2. 'lic ing :ors of pnal LAND REVENUE 1793 : Ben. Reg.2.1 BENGAL REGULATION 2 OF 1793 13 (THE BENGAL LAND-REVENUE REGULATION, 1793) [1] [1st May, 1793.1 A Regulation for abolishing the Courts OT Mal Adalat or Revenue Courts and transferring the trial of the suits which were cognizable in those Courts to the Courts of Dewani Adalat ; and prescribing Rules for the conduct of the Board of Revenue [2 and the Collectors. r 3] Bengal the greater part of the materials required for the numerous and valuable manufactures, and most of the other principal articles of export, are the produce of the lands: it follows that the commerce, and consequently the wealth of the country, must increase in proportion to the extension of its agriculture. But it is not for commercial purposes alone that the encouragement of agriculture is essential to the welfare of these [States] The Hindus, who form the body of the people, are compelled, by the dictates of religion, to depend solely upon the produce of the lands for subsistence ; and the generality such of the lower orders of the Natives as are not of that persuasion are, from habit or necessity, in a similar predicament. The extensive failure or destruction of the crops that occasionally arises from drought or inundation is in consequence invariably followed by famine, the ravages of which are felt chiefly by the cultivators of the soil and the manufacturers from whose labours the country derives both its subsistence and wealth. Experience having evinced that adequate supplies of grain are not obtainable from abroad in seasons of scarcity, the country must necessarily continue subject to these calamities until the proprietors and cultivators of the lands shall have the means of () SHORT TITLE.—This short title was given by the Amending Act 1897 (V of 1897), since repealed. LOCAL EXTENT.—This Regulation has been declared, by notification under the Scheduled Districts Act, 1874, (XIV Of 1874) section 3, to be in force in the District of Sylhet—see Notification No. 713-L., dated the 27th September 1937. PARTIAL REPEAL.—So much of this Regulation as requires the appointment of dewans in the different districts, or defines the duties of the dewans, or relates in any other manner, directly or indirectly, to those offices, was repealed by Bengal Regulation XV of 1813. Specific references in the Regulation to dewans were repealed by the Repealing Act, 1874 (XVI of 1874), and have been omitted—see footnotes, post. [2 In Assam, the Chief Commissioner (Now, the State Government) 'Bengal, Bihar and Orissa and Assam Laws Act, 1912 (VII of 1912), section 3, and Schedule D, part III, post as adapted by A. O. , 1950

3. The words "the British territories" is omitted by A.O., 1950

4. Substituted 'Provinces' by A.O., 1950. Preamble 14 REVE>.'VE [1793 : Ben. Reg.2. increasing the number of the reservoirs, embankments and other artificial works, by which, to a great degree, [the untimely cessation of the periodical rains may be provided against, and the lands protected from inundation ; and as a necessary consequence the stock of grain in the country at large shall always be sufficient to supply those. occasional, but less extensive, deficiencies in the annual produce which may be expected to occur notwithstanding the adoption of the above precautions to obviate them. To effect these improvements in agriculture, which must necessarily be followed by the increase of the article of produce, has accordingly been one of the primary objects to which the has been directed in its attention of

the [Government] arrangements for the internal government of these [States]. 2 As being the two fundamental measures essential to the attainment of it, the property in the soil has been declared to be vested in the landholders, and the revenue payable to Government from each estate has been fixed forever. These measures have at once rendered it in the power of the proprietors to improve their estates, and to employ the means of raising the funds necessary for that purpose. was never before or formerly. The property in the soil declared to be vested in the landholders, nor were they allowed to transfer such rights as they did possess or raise money upon the credit of their tenures, without the previous sanction of Government. With respect to the public demand upon each estate, it was liable to annual or frequent variation at the discretion of Government. The amount of it was fixed upon an estimate formed by the public, officers of the aggregate of rents payable by the raiyats or tenants for each Bigha of land in cultivation, of which, after ten-elevenths were usually deducting the expenses of collection, considered as the right of the public, and the remainder the share of the landholder. Refusal to pay the sum required of was followed by his removal from the management of the estate, and the public dues were either levied in farm or collected by an officer of Government, and the above-mentioned share of the landholder, or such sum as special custom, or the orders of Government, might have fixed was paid to him by the farmer or from the public treasury. When the extension of cultivation was productive of a heavier assessment, and even the possession of the property was uncertain, the hereditary landholder had little inducement to improve his estate, and a moneyed man had no encouragement to embark their capital in the purchase or improvement of land, whilst not only the profit, but the security for the capital itself, was so precarious. The same causes, therefore, which prevented the improvement of land depreciated its value. Further measures, however, are essential to the attainment of the important object above stated. 1. Substituted for "British Administration" by A. O. , 1630. , "Provinces" by A. O. , 1959. 2. o 1, at 1793: Ben. Reg. 2. All questions concerning and the landholders respecting assessment collection or the public revenue and disputed claims the latter and their raiyats or other persons concerned the collection of their rents, have hitherto been cognizable in the Court of Mal Adalat or Revenue Courts. The Collectors of the Revenue sit beside these Courts as judges and an appeal lies their decision to the Board of Revenue, and from the decisions of that Board to the Governor General in Council in the Department of Revenue. proprietors can never consider the privileges which have been conferred upon them as secure, whilst the Revenue-officers are vested with these judicial powers. Exclusive of the resort to these courts from their irregular summary, and often expensive proceedings, and from the Collectors being obliged to suspend the exercise of their judicial functions, whenever they interfere with their civil duties, it is obvious that, if the regulations for assessing and collecting the public revenue are infringed, the Revenue-owners themselves must be the aggressors, and that individuals who have been wronged by them in one capacity can never hope to obtain redress from them in another. Their financial occupations continually disqualify them for administering the laws between the proprietors of land and their tenants. Other security, must be given to landed property and to the rights attached to it before the desired improvements in agriculture can be expected to result. Government has lost sight of the power of infringing, in its executive capacity, the rights and privileges which, as exercising the legislative authority, it has conferred on the landholders. It must be deprived of their judicial and revenue powers. * All financial claims of proprietors, when disputed under the Regulations, must be subjected to the cognizance of the Courts of Law who, from their official situations, not only be wholly uninterested in the result of their decisions, but bound to decide impartially between the public and the proprietors of land, and also between the latter and their tenants. Collectors of the revenue must only be divested of the power of deciding upon their own acts, but rendered amenable to the Courts of Judicature, and collect the public dues subject to a personal prosecution for every exaction exceeding the amount which they are authorized to demand on behalf of the public, and every deviation from the Regulations prescribed for the collection of it. No power will then exist in the country by which the rights vested in landholders by the Regulations can be infringed or the value of landed property affected. LANE R P. VLNUL .1 [1793 : Ben. Reg. 2. Collectors Of Revenue. Land must, in consequence become most desirable of all property, and the industry of the people will be directed to those improvements in agriculture which are as essential to their own welfare as to the prosperity of the State. The following rules, being the rules passed for the guidance of the collectors and the Board of Revenues on the 8th June, J. 787, and the 25th April, 1786, with alterations adapted to the principles above stated, have been accordingly enacted. 2 [Institution of Courts of Mal Adalat.] Rep,

by the Repealing Act, 1873. (12 3. The collection of the revenue payable to Government from the estates in each zila is to be committed, as heretofore, to a civil covenant servant of the company, who is to be styled [of the zila to which he may be Collector of the Revenue appointed 4. The Collectors [are to correspond with Board of subject Revenue [3] and to conform to all instructions with which they have been furnished by that Board, and that are or may not be Revenue. altered or revoked by this or any other Regulation and also to all instructions which the Board of [may hereafter transmit to them. Revenue [5. The Collectors [of the several zilas are to use a circular Seal Collectors. The seal one inch and a half in diameter. The seals of the Collectors [in Bengal and Orissa are to bear an inscription to the following effect, in the Bengali *5 Characters and language 7 and the seals of the collectors in Bihar a similar inscription, in the Hindustani language and Nagli character. " The seal of the Collector [E of the zila of Collectors [] are to keep a regular diary of their (collectors to * 8 or Bengali keep diaries. official transactions, either in the English, language, recording and attesting them with their official signature at the time they may take place. 7. The duties prescribed in the following section are to be Duties of Collectors. performed by the Collectors [under the superintendence of the Board of Revenue 3 O. collect the amount of the fixed revenue assessed Nature of upon the lands of the zamindars, independent talukdars or other duties. actual proprietors of land, with or on behalf of whom a settlement has been or may be concluded. [1 In Assam, the Deputy Commissioner. to the exercise Of function of Deputy Commissioners, see the Assam Land and Revenue Regulation, 1886 (1 of 1886), Chapter VI 1, post. [2] "The second sentence of S. 3, as to oats, which was repealed by the Repealing Act, 1873 (X 11 Of 1873). is [3] Assam, the Chief Commissioner (Now, the State Government) the Bengal, Bihar and Orissa and Assam Laws Act, 1912 [VII of 1912), s.3 and Sch. J). Pt. post, as amended by the A. O. 1950. [4 The words and figures ' published in the manner directed in Regulation OXLI, 1 793, ' which were repealed by the Repealing Act, (XVI 1874), are omitted. 5. The words 'and Persian' omitted by 6. The words Persian Characters and A. O., 1950

7. Substituted for 'languages' by A. O., A. O. 1950. language and the- omitted by the 1950. I. Act REVENUE 11793: Ben. Rea., conform to all special orders that have been or may be issued to them by the Board of Revenue, [1 or by public officers empowered to issue such orders. 9. * * all * * [YI officers under the Collector [A] are to Officers to obey orders act agreeably to his orders and such rules as he may prescribe. of Collector. 10. The Collectors are prohibited from employing Collectors directly or indirectly, their private servants, whether banias or not to employ private others, in the discharge of any part of their public duties, it servants in being required that, in all matters relating to the trust committed to them, they act as the only empowered agents of Government. This prohibition, however, is not intended to restrict them from occasionally employing their assistants * [] or their inferior public servants in the cases and in the manner in which they are authorised to make use of their agency. 11. [Appointment and removal of revenue cash-keepers.] the A. O. 1937. 12. to the issue in public money. 13. [and removal of revenue servants.] Rep. A. O.

1937. Rep. by the Act by the In absence 14. In the event of the death or removal of a collector [a], of Collector or of his absence from his station, the senior Assistant on the spot, senior spot is to perform the duties of Collector * and the public Assistant to officers of the Collectorship are accordingly to obey his orders. officiate

15. No Collector, [1 Assistant * * [7] to a Collector, or any person [8] in the employ of a Collector or of an Assistant, Collectors shall hold, directly or indirectly, any interest, or be concerned in and their private account in the collection or payment of the revenue officers pro- of any lands in the zila, either as farmer, surety or otherwise; and prohibited * [officers and private servants and dependents of Collectors being concerned and Assistants are prohibited from purchasing, directly or unofficially in revenues.] [1 In Assam, the Chief Commissioner (Now the State Government) —See the Bengal, Bihar and Orissa and Assam Act, 1912 (VI 1 Of 1912 L as adopted by the A. O., 1930. [1 The words ' The dewan and.' were repealed by the Repealing Act. 1874 (XVI of 1874), are omitted. The word "Native" omitted by A

1950. In Assam, Deputy Commissioner. As to exercise of functions Of Deputy Commissioner. see the Assam; Land Revenue Regulation, 1886 (1 of 1886), chap. X 41, rule 1. The words are to perform any act of authority without sanction or authority. under pain of being fined in a sum not exceeding six months'

salary, or 01 being dismissed from their offices by the Collector, the Board of Revenue or the Governor General in Council, and also of being sued in the Court of judicature or damages by any who may consider himself aggrieved by such unauthorised act, rep. by the A. 1937. words "and the dewans," which were repealed by the Repealing Act, (XVI of 1874), are omitted. [: j '1 he words "or dewan," which were repealed by the same, are omitted. 1, J word "person" substituted for the word "Native" by A. 1950. 17 inj fro in an pn 18 ven int be' ore dai the fac Bo. (Io Act Act. 1793: Ben. Reg.2.J LÄND REVENUE indirectly, any land that the Collector may (in pursuance of at public sale, under the penalty of forfeiting the property to Government, upon proof being made, to the satisfaction of the State Government or the property having been so purchased, 16. The rules in the section, however, are not to be bona purchases of be considered to prohibit * * of a Collector land at private servant of a Collector J i] or 01' an Assistant, vate sale by or any From purchasing bona /i(e the proprietary right in lands situated Collector's in the zila, by private sale. officers, etc. 17. r Prohibition land IO Europeaus.l Rep. the Repealing Act, (b' I g. and their Assistants from Ouding.] Rep. h, A. O. 1937. 19. [l)ncans prohibited l)nding money to proprietors of land.] Rep. the Repealing Act, (12 of 1873). 20 'The_ Collectors are to be careful that (he accounts and records of their respective zilas are kept complete and duly ca.lmGrs preserved. kcep 21-2 t. [went/eting o.tnpact, and against records• cmp/oving sepoy's in collection q' rcaenue.l Rep. the Repealing Act of 1871). 23. | Resln;cnon i//i:avi.] /he Land {mpro- Act, (26 of 1871)

24. The Collectors are prohibited deputed any person Collectors into the zila of any other Collector, or exercising any authority not to exercise antho.beyond their limits of their respective zilas, excepting in cases in rity beyond wilicll they may be authorised so to do * * * by special limits of orders from a competent authority. their zilas 25. The Collectors 1 i are to give "initially ver•ipts all without payment• of revenue into their treasuries, specifying the date 01' oruers dates on which the money may be received * * * Rule with The keepers of" the * I '51 1 •ords are to keep a register of regard to these. receipts rly receipts. After 11.' cing the they are on the face of them date on which they may be registered. A copy of this register is to be LI unsntted jnonthiv to the Board of Revenue, or as Olien as (hat Board Inav require. [l I In Assam, [he Deputy As to the exercise. of functions Of Deputy Commissioner, Assam Land and Revenue Regulations, 1886 (1 of 1886), Chap. \ n , Posi. Substituted by the A. O. , J 937 an A. O. J 95') IV•r "Governor General in (Coutu i!' • to read 'State I words 'dewan or other, which were by Illic Repealing Act, '1874 (XVI of 1874), Subqituted [or ' 'a Natis v Officer" by A. O. , 19.30. [3 | The words and figtn•es 'C by a Regul.iti'n publishce! in 'lit XI,l. 1 793, or" which were repealed the Rcpalitit{ Act, 1 8 74 (XVI of 1874). are I tile gpec;c': of rupees in vsliicli each u,ay be made" which were repealed by the Repealing Act, 01' omitted. The word "Nati•" q•mitted by A. O. , 1930. [R In Assam the Chief ('omtnissioner (Now the Stnlc voverujunct*) —see the Bengal, Bihar and Assam Laws Act, 1912 (Vu ot' 1912), s. 3, and Sch. D.. Pt. III. post as adapted by the A. O. , 1900. 't 20 LAND R tIVENT-iE 793 : Ben. Reg.2. A similar register oi- receipts is to be kept by all tahsildars, sazawals or other * * [4] oiiiicrs entrusted with the immediate collection of the public revenue, and a copy of it is to b". trans- mitted to the Collector | 1] monthly or- as often as he may require

26. The monthly or other If.ceipts, for salaries, pensions, or Register Of allowances of whatever kind, which may be paid by the Collec- receipt' for records ths:ir tors, 1 aye to be deposited amongst (he public salarie•, etc. respective zilas, and a register of them is to be kept by the keep- Of the * * * 27. [Collectors rr.qicn;ng or not lo quif sültion sanction. I Rep. by the Act, 187 ot (lb of 1874). 28, 29. [d,o//rclos to be subordinate to Recent;e : t/s constitution.] Rep. by the Bengal T:oytl of Rroeuue Regulation, 1822 (3 1822). 30-32. (Pouvr of ldoard over @/fir.ejs under lhern, and rules ing deputation.) Rep. the Repealing Act, 1874. (I d) of I what 33. The Board of Reventit• [31 are empowered to require the ca'es Board personal at tendance of anv ptu»rietor or farmer of land or any may require dependent tainkclar. under farmer or raiyat, or any personal at- officer employed under a Collector for the purpose of adjus- tendance. ting any settlernent, or exatnining any accounts, or inquirinu into any matter coming within their cognizance, provided the perso- nal attendance 01' the party shall appear to them indispensably necessary. In snc,h cases the board [31 are to tile Collector to serve. such person with a written notice under his official seal and signature, specitVing the business on account of which his attendance is .iurldged necessary, and requiring him to attend the Board by such period as they may limit, under pain of being subject to such daily fine until he attends, or shows satisfactory cause for his non-attendance, as the Board may think proper to The Board [are empowered to fine such persons neglecting to appear by the time

required, in such amount as may appear to them proper upon a consideration of the case and the situation and circumstances in life of the party, and the amount of the line shall be levied by the Collector, 11 by the process prescribed for the recovery of arrears of revenue. But the Board of Revenue [31 are prohibited requiring the personal attendance of any person in cases in which the business can be transacted by a vakil. In Assam, the Commission. As to the exercise of function of Deputy Commissioners, see the Land Revenue Regulation 1908. The words "A copy of the register is to be transmitted annually to the Board of Revenue," which were repealed by the Repealing Act, 1948 (XVI of 1948), are deleted. In Assam the Chief Commissioner (Now the State Government) the Bengal, Bihar and Orissa Land Revenue Laws Act, 1912 (VII of 1912) adapted by the A. S. 1950. The word "Native" omitted by A.

1950. Reg.2. Üars, diate . trans- he may ions, or Collec— of their keep- withotit its n, 1822 re gard- Pire the or any adjus- g into e perso- pensably r to *Cial seal -rich his end the of being 'factory proper to glecti ng appear to situation the fine ibed for •ring the business of funct inns Regulation, •onually to Act, 1874 nment—se. 1912) a. 1793: Ben. Reg.2.1 LAND REVENUE 21 34, 35. [Execution of Board's orders, and Powers of Members.] Rep. by the Bengal Board of Recenve Regulation, 1822 (3 of 1822)

36. The Board of Revenue [1 are empowered to issue orders powers of to their subordinate officers
Ibr making rthe settlement of lands Board as to that are or may be khas in conformity to tlae
Regulations, and srttlernent any s ecial instructions which may be prescribed to them by the Of
lands held khas.[2] [tate Government]

37. In all cases of a settlement being made with or on behalf of zamindars, independent talukdars or other actual proprietors Payment Of revenue. of land, their lands are to be deemed sufficient security for the payment of the revenue. But, where lands are let in farm, a malzatin, or surety for the punctual discharge of the revenue, to be invariably required

38. No remissions upon the settlement of a preceding year, Remissions. nor any remissions whatsoever, are to be granted by the Board without the sanction of the [21 [State Government]]. Settlements 39. It is to be observed as a general principle that the settle- to be ment of lands that are or may be khas is to be made by the Col- by, under the regulations and the instructions of the tors. lectors Board of Revenue [1 J. But if the Board should deem a special deputation of one 01 their members, or of any other person, necessary to ibrm the settlement of any such lands, they are to propose the measurc to the [2 J (State Government)] with their reasons for recommen- ding it

40. Upon a settlement being concluded with any proprietor Procedure or farmer, conformably to the regulations, the Board of Revenue on settle- ment being [IJ are to issue the usual bandobasti parwana to the proprietor concluded.or farmer, Without applying to the [2] [State Government] for [8] [its] sanction for that purpose.] In Assam, the Chief Commissioner (Now the State Government) —St' the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (VII Of 19 12), s.3, and sch. D, Pt.III,tost, as adapted by the A.O., 1950. The words "Governor General in Council" in ss. 30, 38 and 39 arc to be read as if the words ' 'Local Government" were substitutel titr.refoæsce the Amending Act, 1903 (I of 1903). since repemed. words "Local Govern- ment" was adapted as ' 'Provincial Government" by the A.O., 1937. The word 'Provincial' has again been subitituted by •State' by A.O.s 1950. [J j In Assam. th: Deputy Commissioner. As to the exercise or functions of Deputy Commissioners, see the Assam Land and Revenue Regulation, 1886 (1 of 1886), Chapter V 11, post. Substituted for ' 'his" by the A.O., 1937. 22 LAND REVENUE [1793: Ben. Reg.2. Collection 41. Tho coiiie€@ion of (he revenue is committed to the •f revenue. Collectors [i] ; but the Board of Revenue [l arc see that the revenues are realized by the stipulated periods, or that solid and satisfactory reasons are assigned by the Collectors[t] for any delay or deficiency. V\he power of coercion over the proprietors and farmers of land is also vested in the Coliectors, r 1] as pvescribed in Regula- tion 14, 179.3

42. The Board are authorized to grant temporary suspensions of the demands of revenue whenever it may appear to them suspensions. reporting the sum suspended, without indispensably necessary, delay to the (State Government) with their reasons for the measure. But they shall not grant any suspensions beyond the current year

43. No remissions of balances are to be granted without the special authority of the State Government. The duty board furnish counts, etc to the Government by the Land Improvement Act, 1871. [The State Board of Revenue are to furnish the Government with such annual,

monthly other accounts as they now are or may be required to submit to. They are likewise to observe all special orders which they have received or may receive from the [c] [State Government]. 46, 47. [Prohibitions to be observed by zamindars, and acknowledgment for Plas restored to foreign Powers. Rep. by the Repealing Act, 1874 (10 of 1874). 48. accounts of expenses relating to rebellious zamindars Rep. by the Repealing Act, 1873 (12 of 1873). and others.] 49.—50. [Rules for conducting the business of Board, and Powers of President.] Rep. by the Bengal Board of Revenue Regulation, 1822 (3 of 1822). In Assam, the Deputy Commissioner. As to the exercise of functions of Deputy Commissioner; see the Assam Land and Revenue Regulation, 1886 (1 of 1886), Chapter VI, r. 1. In Assam, the Chief Commissioner (Now the State Government of the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (V of 1912), s. 3, art. Sch. D, Pt. III. post, as adapted by the A.O., 1950. The Ben. Reg. XIV of 1793 was repealed by the Repealing Act, 1874 (XVI of 1874), but this reference is saved by the proviso to that Act. [•] The words "Governor General in Council" in ss. 40, 42, 43 and 45 are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (I of 1903). since repealed. The words "Local Government" was adapted as "Provincial Government" by A.O., 1937. The word "Provincial" has again been substituted by the word "State" by A.O., 1950. [•] Substituted by the A.O., 1937 for "him".

