

## **Bengal Rent Settlement Act, 1879**

**08 of 1879**

**[04 June 1879]**

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### PREAMBLE

An Act to define and limit the powers of Settlement-officers.

Whereas it is expedient to define and limit the powers of Settlement-officers;

It is enacted as follows:-

1. SHORT TITLE.-The short title was given by the Amending Act, 1903 (I of 1903).

LEGISLATIVE PAPERS.-For Statement of Objects and Reasons, see the Calcutta Gazette of 1879, Pt. IV, page 46; for Report of Select Committee, see *ibid*, page 55, and for Proceedings in Council, see *ibid*, 1879, Supplement, pages 326, 393, 435.

LOCAL EXTENT.-This Act extended originally to the whole of the former Province of Bengal (see section 1), and it applies to all

settlement proceedings under the Bengal Land-revenue Settlement Regulation, 1822 (VII of 1822), which were confirmed after the commencement of Ben. Act III of 1878 (Powers of Settlement Officers), or which were or are confirmed or sanctioned by the Revenue-authorities duly empowered (see section 14).

The Act has been repealed by the Bengal Tenancy Act, 1885 (VIII of 1885), section 2(1) in the whole of the former Province of Bengal except "the town of Calcutta, the Division of Orissa and the Scheduled Districts."

The extension of the repeal to Scheduled Districts depends upon the terms of the notifications extending the Act of 1885 to such districts under the terms of the notification extending the Act of 1885 to the Jalpaiguri district, the repeal has taken effect in that district.

The only portion of the present State of West Bengal in which Ben. Act VIII of 1879 appears to be effectually in force at the present time is the Darjeeling district.

### **1. Extent :-**

This Act extends to <sup>1</sup>[the district of Darjeeling and to that part of the State<sup>2</sup> of Orissa which on the fourth day of June, 1879 was] under the administration of the Lieutenant-Governor of Bengal.

[Commencement].-Repealed by section 4 and Sch. III of the Amending Act, 1903 (I of 1903).

1. Substituted for the words "all the territories" by para. 3(1) and the Sch. of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

2. The word "State" was substituted for the word "Province" by para. 4(1) of the Adaptation of Laws Order. 1950.

### **2. [Repealed] :-**

[Repeal of Ben. Act III of 1878.]-Repealed by section 4 and Sch. III of the Amending Act, 1903 (I of 1903).

### **3. Interpretation :-**

In this Act-

"Settlement-officer".

"Settlement-officer" means the Collector or any officer in charge of the revenue jurisdiction of a district, and includes any Assistant Commissioner, Deputy Collector or Sub-Deputy Collector whom the Collector or other officer as aforesaid may authorize to conduct the inquiries and proceedings connected with any settlement of land-

revenue, and any officer who may be appointed by the <sup>1</sup>[State Government] to make any such settlement:

"under-tenant".

"under-tenant" means any holder of a heritable and transferable intermediate tenure between <sup>2</sup>[the Government] and the raiyat other than a zamindar.

1. The words "Provincial Government" were first substituted for the words "Lieutenant-Governor" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

2. The words "the Crown" were first substituted for the words "the Government" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "Government" was substituted for the word "Crown" by para. 4(1) of the Adaptation of Laws Order, 1950.

#### **4. Settlement proceedings not affected by certain enactments :-**

Nothing contained in section 51 of Regulation VIII of 1793<sup>1</sup> or in sections 13, 14 and 17 of Act X of 1859,<sup>2</sup> \* \* \* <sup>3</sup> shall affect any settlement proceeding under Regulation VIII of 1822,<sup>4</sup> or under any other law for the time being in force for the regulation of settlements of land-revenue.

1. The Bengal Decennial Settlement Regulation, 1793.

2. The Bengal Rent Act, 1859.

3. The words and figures "or in sections 14, 15 and 18 of Bengal Act VIII of 1869" were repealed by section 4 and Sch. III of the Amending Act, 1903 (I of 1903).

4. The Bengal Land-revenue Settlement Regulation, 1822.

#### **5. Rent to be in accordance with rates sanctioned by the Revenue-authorities :-**

In any such settlement-proceedings the rent recorded as demandable from each raiyat shall, except as herein otherwise provided, be in accordance with the general rates sanctioned or subsequently approved for adoption in such settlement by the Revenue-authorities from time to time empowered in that behalf by the <sup>1</sup>[State Government].

1. The words "Provincial Government" were first substituted for the words "Lieutenant-Governor" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

## **6. Grounds of enhancement :-**

The Settlement-officer may, on some one or other of the following grounds and not otherwise, record a higher rent as demandable for any raiyat having a right of occupancy than the rent which was previously paid by him, namely:-

(i) that the higher rent so recorded is calculated on rates which are not above the prevailing rates payable by the same class of raiyats for land of a similar description and with similar advantages in the surrounding neighborhood;

(ii) that the enhancement is not greater than is justified by the increase which has taken place in the productive powers of the land otherwise than by the agency, or at the expense, of the raiyat since the rent of the raiyat was last fixed;

(iii) that the value of the produce of the land has been increased otherwise than by the agency, or at the expense, of the raiyat since the rent of the raiyat was last fixed; and that such higher rent does not bear a higher proportion to the rent of such raiyat as last fixed than the normal price of produce at or about the time of the present settlement bears to the normal price of similar produce which prevailed at or about the time when such rent was last fixed;

(iv) that the value of the produce of the land has been increased otherwise than by the agency, or at the expense, of the raiyat since the last previous settlement of the lands was made; and that such higher rent does not bear a higher proportion to that which would have been the rent of lands of a similar description and the same area according to the rates of such previous settlement, than the normal price of produce at or about the time of the present settlement bears to the normal price of similar produce which prevailed at or about the time of such previous settlement, as recorded in the papers of such settlement, or as otherwise ascertained and certified by the Settlement-officer;

(v) that the quantity of land held by the raiyat has been proved by measurement to be greater than the quantity for which rent has been previously paid by him.

## **7. Rules for determining rent recorded as demandable :-**

The rent recorded as demandable from an under-tenant shall be determined in accordance with the following rules:-

(a) Whenever the Settlement-officer shall find any person holding as an under-tenant, he shall first ascertain and record whether the tenure so held is binding as against <sup>1</sup>[the Government].

(b) If the Settlement-officer finds the tenure to be so binding, the rent recorded as demandable from such under-tenant shall in no case be higher than an amount which shall be ten per cent. below the aggregate of the rents recorded as payable to him from the subordinate under-tenants and raiyats and whose holdings fall within his tenure.

(c) If the Settlement-officer shall find that the tenure is not binding as against <sup>1</sup>[the Government], he shall first determine the proportionate amount of the demand of land-revenue to be assessed upon the lands included in the tenure in accordance with any orders <sup>2</sup>[of the State Government] for the time being in force regulating the demand of land-revenue, and shall record the rent payable by such under-tenant at such a sum (not being less than such proportionate amount of land-revenue or more than aggregate of the rents recorded as payable to him from the subordinate under-tenants and raiyats whose holdings fall within his tenure) as may seem fair and equitable with reference to the character and circumstances of the tenure.

1. The words "the Crown" were first substituted for the words "the Government" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "Government" was substituted for the word "Crown" by para. 4(1) of the Adaptation of Laws Order, 1950.

2. The words "of the Provincial Government" were first substituted for the words "of Government," by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

### **8. Procedure when rent demandable is recorded below that to which it might have been enhanced :-**

When the rent demandable from any under-tenant or raiyat is recorded at an amount below that to which the rent of such under-tenant or raiyat might have been enhanced under this Act, it may be recorded that such under-tenant or raiyat shall from time to time be liable to pay increased rent from such dates as may be

fixed by the Settlement-officer until the rent paid by him reaches the amount which the Settlement-officer may determine to be properly payable by him under this Act.

#### **9. Service of notice of enhancement :-**

Whenever a higher rent has been recorded as demandable from any under-tenant or raiyat than the rent previously paid by him, the Settlement-officer shall cause to be published a copy of the jamabandi or extracts therefrom, specifying in respect of each such under-tenant or raiyat the rent recorded as payable by him, and in the case of a raiyat, the clause or clauses of section 6 of this Act under which his rent is enhanced.

Such publication may be lawfully made by affixing a copy of the jamabandi, or of such extracts therefrom as the Collector may think fit, at the mal cutcherry of the village to which the, jamabandi relates, or at some other conspicuous place therein, and by proclamation by beat of drum in the said village to the effect that the said copy or extracts have been so affixed, and that the jamabandi can be inspected at the office of the Settlement-officer.

#### **10. Suit to contest rents :-**

Every under-tenant and raiyat shall be liable to pay the rent recorded as demandable from him under this Act, unless it shall be proved in any suit instituted by such under-tenant or raiyat to contest his liability to pay the same that such rent has not been assessed in accordance with the provisions of this Act.

But nothing in clause (c) of section 7 of this Act or in this section shall be held to limit the discretion of the Court in determining in any suit under this section the rent of an under-tenant of the class described in the said clause (c).

No suit under this section shall be instituted otherwise than within four months after the publication of the jamabandi, or extracts as aforesaid, in the village in which the lands which are the subject of the suit or any part thereof are situated.

#### **11. Procedure in suits to contest rent recorded as demandable :-**

In all suits instituted to contest the rent recorded as demandable under this Act the Court shall, if it modifies or sets aside such rent, proceed to determine the rent payable by the plaintiff in

accordance with this Act, and, if any arrears of rent at the rates determined by the Court are found to be due, shall make a decree in favour of the defendant for such arrears, with such costs as may seem proper.

**12. Enhancement when to take effect :-**

If publication of the copy of a jamabandi or of extracts there from as provided in section 9 of this Act is made within the first six months of the year of the era current in the district, the enhancement may take effect from the beginning of the year in which such publication may have been made; otherwise it shall take effect from the beginning of the next following year.

**13. Rent to hold good for ten years or until expiration of settlement :-**

Rent recorded as demandable under this Act, or fixed by a final decree in any suit as aforesaid shall not be liable to enhancement until ten years shall have elapsed from the date on which the settlement took effect, or until the period of the settlement shall have expired, whichever may first occur.

**14. Application of Act :-**

The provisions of this Act shall apply to all settlement proceedings under Regulation VII of 1822<sup>1</sup> which may have been confirmed after the commencement of Bengal Act III of 1878<sup>2</sup> or which may hereafter be confirmed or sanctioned by the Revenue-authorities from time to time empowered in that behalf by the <sup>3</sup>[State Government] whether such proceedings shall have been commenced before or after the commencement of the said Act.

1. The Bengal Land-revenue Settlement Regulation, 1822.

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. Ben. Act III of 1878 was repealed by section 2 of this Act.

3. The words "Provincial Government" were first substituted for the words "Lieutenant-Governor" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.