

## **CESS ACT, 1880**

### **9 of 1880**

**[13th October, 1880]**

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**CESS ACT, 1880**

**9 of 1880**

**[13th October, 1880]**

An Act to amend and consolidate the Law relating to rating for the Construction, Charges and Maintenance of District Communications and other Works of Public Utility, and of Provincial Public Works. Preamble. WHEREAS it is expedient to amend and consolidate the law relating to rating for the construction, charges and maintenance of district roads and other means of communication, and of provincial public works, within the territories administered by the Lieutenant-Governor of Bengal, and to the levy of a road cess and a public works cess on immovable property situate therein, and to the constitution of local committees for the management of the proceeds of the said road cess, and also to provide for the

construction and maintenance of other works of public utility out of the proceeds of the said road cess; It is hereby enacted as follows:

## CHAPTER 1

### Preliminary

#### **1. Short title :-**

This Act may be called the Cess Act, 1880; (Commencement.) Rep. by Act 1 of 1903.

#### **2. Extent :-**

This Act shall take effect at once in every district and part of a district in which Bengal Act 10 of 1871 (an Act to provide for local rating for the construction and maintenance of roads and other means of communication) and Bengal Act 2 of 1877 (an Act to provide for the levy of a cess for the construction, charges and maintenance of provincial public works) may be in force on the date of the commencement of this Act. (The <sup>1</sup>[State Government] may, by notification, in the <sup>2</sup>{Official Gazette], extend its provisions to any other district or part of a district situate in the territories for the time being administered by <sup>2</sup>[it]; and this Act shall take effect accordingly therein from the date specified in such notification:)

Provided that nothing herein contained shall be deemed to affect any immovable property within the limits of the ordinary original jurisdiction of <sup>4</sup>[the High Court at Calcutta], or within the limits of any <sup>5</sup>[municipality under the Bengal Municipal Act, 1932].

The <sup>1</sup>[State Government] may, by notification in the <sup>2</sup> [Official Gazette], exempt any district or part of a district, or any estate or tenure, from the operation of this Act, or from the operation of so much thereof as relates to the road cess, or as relates to the public works cess, and may at any time, by a similar notification, revoke such exemption.

1. Words subs, by the Government of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order, 1950, respectively.

2. Words subs, by the Government of India (Adaptation of Indian Laws) Order, 1937.

4. Words subs, by the Adaptation of Laws Order, 1950.

5. Words and figures subs, by Ben. Act 1 of 1939.

#### **3. Repeal of District Road Cess Act, 1871, and Provincial Public Works Act, 1877 :-**

Rep. by Ben. Act 1 of 1939.

#### **4. Interpretation-clause :-**



In this Act, unless there be something repugnant in the subject or context, "Commissioner" means the Commissioner of the Division: "cultivating raiyat" means a person cultivating land and paying rent thereof not exceeding one hundred rupees per annum:

Explanation. When rent is payable in kind, the money value thereof shall, for the purposes of this Act, be taken to be the annual value of the landlord's share of the crop calculated on an average of the three years next preceding any valuation or re-valuation under this Act: <sup>1</sup>"despatch", in relation to a coal mine, means the quantity of coke and coal despatched from the coal mine and that, in relation to other mines and quarries including sand quarries, means the quantity of minerals/sand despatched from such mine or quarry; "district" means the local area to which a Collector is appointed and no lands situate beyond the limits of such local area shall be deemed to form part of a district by reason of their forming part of an estate paying revenue to the Collector thereof: "estate" means

(1) land included under one entry in the general registers of revenue-paying lands and of revenue-free lands prepared and maintained by the Collector of a district under the Land Registration Act, 1876, or any similar law for the time being in force;

(2) any land, other than the holding of a cultivating raiyat, the revenue or rent of which may be payable directly to the Collector or any person specially appointed by him to collect the same;

(3) any land acquired under any rules issued by, or under authority of, Government for the sale, grant, lease or clearance of wastelands: "holder of an estate or tenure" means all or any of the holders thereof, and, where two or more persons are jointly holders thereof, they shall be jointly and severally liable under this Act: "holding" means the land held by a cultivating raiyat: "immovable property" includes lands and all benefits to arise out of land and things attached to the earth, or permanently fastened to anything which is attached to the earth, but does not include crops of any kind, or houses, shops or other buildings:

(i) when used in reference to revenue-paying estates and lands comprised therein, to all proceedings connected therewith and to the assessment and levy of cesses in respect thereof, the Collector or other similar officer on whose revenue-roll such estates are borne;

(ii) when used in reference to revenue-free estates and lands comprised therein, to all proceedings connected therewith and to the assessment and levy of cesses in respect thereof, the Collector or other similar officer on whose general register of revenue-free lands such estates are borne; "the Collector of the district" includes any person specially invested with the powers of a Collector for the purposes of this Act, and means the officer in charge of the revenue-administration of a district: <sup>2</sup>"the Settlement Officer" means the Revenue-officer appointed by the <sup>3</sup>[State Government] under the designation of Settlement Officer or Assistant Settlement Officer, for the purpose of preparing or revising records-of- rights, under Chapter X of the Bengal Tenancy Act, 1885, or any other law for the time being in force, in respect of the lands in any local area, estate or tenure, or part thereof, and includes any officer appointed by the <sup>3</sup>[State Government] to maintain records-of-rights so prepared or revised.

5\* \* \* \* \*

4\* \* \* \* \*

<sup>7</sup> [Board of Revenue] under section 11. ["Zilla Parishad" means a Zilla Parishad established under section 3 of the West Bengal Zilla Parishads Act, 1963.

1. This 'definition' was first ins. by W.B. Act 23 of 1964. Later, it was subs by W.B. Act of 32 of 1984.

2. This definition added by W.B. Act 4 of 1910.

3. Words subs, by the Government of India (Adaptation of Indian Laws) Order. 1937 and the Adaptation of Laws Order, 1950, respectively.

5. Definitions of "District Board" and "District Fund" omitted by W.B. Act 35 of 1963.

7. Words subs, by Ben. Act 5 of 1915.

## **5. All immovable property to be liable to a road cess and public works cess :-**

From and after the commencement of this Act in any district or part of a district, all immovable property situate therein except as otherwise in <sup>1</sup> [section 2] provided, shall be liable to the payment of a road cess and a public works cess

1. Word and figure subs, by Ben. Act 1 of 1939

## **6. Cesses how to be assessed :-**

The road cess and the public works cess <sup>1</sup>[shall be assessed (a) in respect of lands, on the annual value thereof, <sup>2</sup>(W in respect of all

mines and quarries, on the annual despatches therefrom, and (c) in respect of <sup>3</sup>\* \* \* \* tramways, railways and other immovable property, on the annual net profits thereof, ascertained respectively as in this Act prescribed;] and the rates at which such cesses respectively shall be levied for each year shall be determined for such year in the manner in this Act prescribed:

<sup>4</sup>Provided that

(1) the rates of such road cess and public works cess shall not exceed six paise and twenty-five paise respectively on each rupee of such annual value,

(2) the rates of each of such road cess and public works cess shall not exceed

<sup>5</sup>(i) fifty paise on each tonne of coal, minerals or sand of such annual despatches, and

(ii) six paise on each rupee of such annual net profits.

<sup>4</sup> Explanation. For the purposes of this proviso, one tonne of coke shall be counted as one and a quarter tonne of coal

1. Portion enclosed in square brackets subs, by W.B. Act 23 of 1964.

2. Clause (b) subs, by W.B. Act 32 of 1984.

3. The words "mines, other than coal mines, quarries" omitted by W.B. Act 32 of 1984.

4. Proviso and Explanation subs, first by W.B. Act 23 of 1964. They were again subs, by W.B. Act 32 of 1973.

5. Sub-clause (i) subs by W.B. Act 32 of 1984

## **7. Public revenues not liable for more road cess than has been paid to Collector by persons liable :-**

Nothing in this Act contained shall be deemed to require the payment by <sup>1</sup>[State Government] <sup>2</sup>\* \* \* , from the public revenues, of any sum as road cess in excess of such sums as may have been paid as such cess to the Collector by persons liable to pay the same.

1. Words subs, by the Government of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order 1950, respectively.

2. Words "of Bengal" omitted by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

## **8. Government and guaranteed railways not liable to the**

## **cesses without consent of Governor General in Council :-**

Omitted by the Government of India (Adaptation of Indian Laws) Order, 1937.

## **9. Application of proceeds of road cess :-**

The proceeds of the road cess in each district shall be paid into the District Road Fund of such district, as hereinafter provided.

## **10. Application of proceeds of public works cess :-**

The proceeds of the public works cess <sup>1</sup>[and all interest paid thereon] shall be paid into the public treasury.

2 \* \* \* \*

1. Words ins. by Ben. Act 2 of 1881.

2. Words omitted by the Government of India (Adaptation of Indian Laws) Order, 1937.

## **11. Power to fix cess year :-**

The <sup>1</sup>[Board of Revenue] shall, by an order published in the <sup>2</sup>[Official Gazette] fix the date from which the cesses leviable under this Act in any district or part of a district shall take effect therein, and may fix and from time to time alter the date from which the cess year shall run in any district or part thereof.

1. Words subs, by Ben. Act 5 of 1915.

2. Words subs, by the Government of India (Adaptation of Indian Laws) Order, 1937.

## CHAPTER 2

### Valuation of Lands

## **12. Board of Revenue may order valuation, and revaluation :-**

Upon the commencement of this Act in any district or part of a district, the <sup>1</sup>[Board of Revenue] may order that a valuation shall be made of such district or part of a district; and from time to time, after the expiration of the term of five years from the beginning of the year in which the levy of the cesses took effect in accordance with any such valuation, or with any revaluation as hereafter provided in this section <sup>2</sup>\*\*\*!, or at any time within twelve months previous to the expiration of such term, the <sup>1</sup>[Board of Revenue] may, if they think fit, order that a re-valuation shall be made of any such district or part of a district, and such revaluation shall take effect from the beginning of such year as the <sup>1</sup> [Board of Revenue] may direct.

1. Words subs, by Ben. Act 5 of 1915.
2. Words "or in Chapter IIA" repealed by Ben. Act 1 of 1939.

**13. After five years holder of estate or tenure may apply to Collector for revaluation :-**

Whenever the term of five years shall have expired from the beginning of the year in which the levy of the cesses took effect in any estate or tenure in accordance with any valuation <sup>1</sup>[or revaluation] under this Act <sup>2</sup> \*\*\*\*\* the holder of any such estate or tenure may apply to the Collector to re-value his estate or tenure, and for such purpose shall lodge in the office of the Collector returns in the form in Schedule A contained; and thereupon the Collector shall proceed to revalue such estate or tenure, and, if he make any alteration in the valuation of any such tenure, shall give notice of such alteration to the holder of the estate or superior tenure in which such tenure is included, and shall alter the valuation of such estate or superior tenure accordingly: Provided that no re-valuation or reduction of the amount of cesses previously payable in respect of any estate or tenure, in consequence of a revaluation under this section, shall take effect until the beginning of the year commencing next after such re-valuation, unless the application for re-valuation shall have been made and the necessary returns lodged in the Collector's office within three months after the beginning of a year, in which case such re-valuation and reduction, if any, shall take effect from the commencement of such year.

1. Words ins. by Ben. Act 2 of 1881.
2. Words and figures "or Bengal Act X of 1871" omitted by Ben. Act 1 of 1939.

**14. Proclamation to make return of lands to be issued. Publication of proclamation :-**

Whenever the <sup>1</sup>[ Board of Revenue] has ordered <sup>2</sup>[under section 12] that a valuation or a re-valuation of any district or part of a district shall be made for the purposes of this Act, the Collector of the district shall cause a proclamation to be issued requiring every holder of an estate or tenure which is liable to pay an annual amount of revenue or an annual amount of rent exceeding one hundred rupees and every holder of a revenue-free estate or rent-free tenure the gross annual rental of which exceeds one hundred rupees, severally to lodge at the office of such Collector within one month a return of all lands comprised in his estate or tenure, in the form in Schedule A contained, giving the particulars in such form

set forth. The Collector of the district shall cause such proclamation to be published by affixing a copy thereof in some conspicuous place in the office of such Collector, in every Civil Court, in every police-station, and in the office of every Subdivisional Officer within the district, and in any other manner which the <sup>1</sup> [Board of Revenue] may from time to time direct.

1. Words and figures ins. by Ben. Act 5 of 1915 in Eastern Bengal and Ben. Act 4 of 1910 in Western Bengal.
2. Words subs, by Ben. Act 5 of 1915.

**15. Re-valuation may be of particular estates or tenures only :-**

At any time at which the <sup>1</sup>[Board of Revenue ] might order a re-valuation of a district or part of a district to be made as provided by section 12, <sup>2</sup>[they] may, if <sup>2</sup> [they] think fit instead of so ordering, make an order that particular estates or tenures only in such district or part of a district shall be revalued.

1. Words and figures ins. by Ben. Act 5 of 1915 in Eastern Bengal and Ben. Act 4 of 1910 in Western Bengal.
2. Word subs, by Ben. Act 5 of 1915 in Eastern Bengal and Ben. Act 4 of 1910 in Western Bengal.

**16. Notice to lodge returns :-**

Whenever any proclamation has been published as mentioned in section 14 , in any district, and whenever the <sup>1</sup> [Board of Revenue] has made an order, under the last preceding section, that a re-valuation of particular estates and tenures only shall be made, the Collector shall cause a notice to be served in respect of every estate and tenure which is to be valued or re-valued and in respect of which no return shall have been lodged in accordance with the requirement of such proclamation, requiring every holder of such estate or tenure severally to lodge at the office of the Collector the return mentioned in section 14; and shall also cause a similar notice to be served in respect of every tenure included in any such estate or tenure which may have been named in any return lodged in pursuance of the provisions of this Act, or of Bengal Act X of 1871, either for the purposes of the valuation or re-valuation then contemplated, or for the purposes of any previous valuation or re-valuation, or of which the existence may in any other way have come to his knowl- edge.

1. Words subst. by Ben. Act 5 of 1915.

**17. Form of notice and time for lodging returns :-**

The notice mentioned in the last preceding section shall be in the Form No. I in Schedule B contained, or in the Form No. II in the said schedule contained, as the case may be, and shall require every holder of the estate or tenure severally to lodge the return within the time specified below, namely: In the case of Revenue-paying Estates and Rent-paying Tenures. The Collector may in his discretion extend the time allowed for lodging any such return.

**18. Penalty for omitting to make return :-**

All holders of estates or tenures in respect of which such notice has been served who shall, without sufficient cause being shown to the satisfaction of the Collector, refuse or omit to lodge the required return in the office of such Collector within the time allowed by such notice in respect of the estate or tenure which they hold, or within any extended time which may have been allowed by the Collector for lodging such return, shall be severally liable to a fine which may extend to fifty rupees for every day after the expiration of such time or extended time until such return is furnished, or until the value of the lands comprised in their respective estates and tenures shall have been otherwise ascertained and determined by the Collector as hereinafter provided. The amount of such fine accruing due from time to time may be levied by the Collector, as provided in section 98 or 99, and the fact of an appeal against such fine being pending shall not avail to prevent the levy of any such fine pending the disposal of the appeal, unless the Commissioner shall otherwise direct. Whenever the amount levied in respect of any such fine exceeds five hundred rupees, the Collector shall report the case specially to the Commissioner; and no further levy for such default shall be made otherwise than by authority of the Commissioner.

**19. No rent to be recovered till return is made :-**

From and after the expiry of the time allowed by the notice, or of any extended time under the provisions of section 17, every holder of an estate or tenure in respect of which such notice has been served shall be precluded from suing for or recovering rent for any land or tenure situate in any estate or tenure in respect of which no return has been lodged as aforesaid. The Collector may send a list to the Civil Court of all such holders so making default in lodging returns as aforesaid, and such Court shall take judicial notice of the same. Whenever the required return is lodged in respect of any estate or tenure or whenever the valuation of any such estate or

tenure has been otherwise completed, the disability imposed on the holder thereof by this section shall cease; and, if such estate or tenure shall have been included in any list as aforesaid, the Collector shall forthwith give notice to the Civil Court of the cessation of such disability.

**20. No rent to be recovered for land, etc., not mentioned in return :-**

Every holder of an estate or tenure in respect of which a return has been made as required by this chapter shall be precluded from suing for or recovering

(a) any rent whatsoever for any land, holding or tenure forming part of the estate or tenure to which such return relates, but which has not been mentioned in such return, unless it be proved that the holding or tenure for the rent of which the rent is claimed was created subsequently to the lodging of such return;

(b) rent at any higher rate than is mentioned in such return for any land, holding or tenure included in such return unless it be proved that the rent of such land or tenure has been lawfully enhanced subsequently to the lodging of such return:

Provided that the Collector may at his discretion, at any time within six months from the presentation of any return made under this Part, receive a petition correcting any such return; and on the acceptance of such petition may make such correction in the valuation of the estate or tenure as may be required; and, as soon as the person in respect of whose estate or tenure, the return and valuation have been so corrected shall have paid in all sums due by him as road cess and public works cess in accordance with such corrected valuation and not otherwise, such person may recover such rent as may be due to him on any tenure or land included in the return of such estate or tenure at any rate not being in excess of the rate shown in the corrected return as payable in respect of such tenure or land. Such notices as the Collector may direct shall be served upon the parties affected by such petition at the expense of the person lodging the return as aforesaid.

**21. If returns not furnished, Collector to make valuation :-**

If no return shall have been lodged in respect of any lands for which notice under section 16 has been issued, the Collector may, after the expiration of the time allowed by the notice, or of such extended time as is mentioned in section 17, ascertain and fix, by



such ways and means as to him shall seem expedient, the annual value of any estate, tenure or lands mentioned in such notice; and all expenses incurred in making such valuation may be recovered with all costs of recovery thereof as provided in sections 98 and 99.

## **22. Valuation by Collector where return untrue or incorrect**

**:-**

**1** . If the Collector is satisfied, for reasons to be recorded by him in writing, that any return made under this Act is untrue or incorrect, he may, by such ways and means as to him may seem expedient, ascertain and fix the annual value of the lands in respect of which the return has been made: Provided that no such action shall be taken without giving notice to the person who made the return and allowing him an opportunity to prove that the return is not untrue or incorrect.

1. Sec. 22 subs. by Ben. Act 11 of 1934.

## **23. Recovery of expense of such valuation :-**

**1** . he expense of any valuation made by the Collector under section 22 may be recovered, in the manner prescribed in sections 98 and 99, from the person by whom the untrue or incorrect return was made:

Provided that, where such return relates to lands for which no rent is payable by cultivating raiyats to the person who made the return, and the annual value of such lands, as determined by the Collector under section 22, does not exceed by one-fifth the value stated in such return, the said expense shall be borne by the District Road Fund.

1. Sec. 23 subs, by W.B. Act 11 of 1934.

## **24. Person returned as cultivating raiyat may be served with notice :-**

The Collector may, whenever he may think fit cause a notice in the Form No. I in Schedule B contained to be served on any person holding any lands or possessing any interest therein, although such person may have been mentioned in any return as a cultivating raiyat; and thereupon such person shall be bound to make a return of the annual value of such lands within one month from the service of such notice in the form in Schedule A contained, and the provisions of sections 17 and 18 regarding extension of time for lodging a return and regarding fines respectively shall be applicable to such person.

**25. If no return made, Collector may ascertain annual value of lands :-**

If no return is made by any person on whom a notice has been served as provided in the last preceding section, the Collector may proceed, by such ways and means as to him shall seem expedient, to ascertain the annual value of the lands held by such person; and, in case it appears that such annual value is greater than the rent paid by such person, the expense of such valuation shall be borne by such person and may be recovered with all costs of recovery thereof as provided in sections 98 and 99, but in all other cases shall be borne by the District Road Fund.

**26. Collector may correct classification in returns :-**

If it shall appear to the Collector that any person on whom a notice has been served under section 24 has been wrongly classed in the return as a cultivating raiyat, the Collector may direct that the entry be corrected and that such person be classed as a tenure-holder; and thereupon such person shall be deemed to be tenure-holder for the purposes of the assessment and levy of the cesses in respect of the lands held by him.

**27. Summary valuation of small revenue-paying estates and tenures :-**

Whenever the revenue annually payable in respect of any estate, or the rent annually payable in respect of any tenure, does not exceed the sum of one hundred rupees, the Collector may, without issuing any notice for such estate or tenure,

(a) in any case determine the annual value of the land comprised therein to be in a permanently-settled estate or tenure a sum not exceeding three times, and in a temporarily-settled estate or tenure a sum not exceeding twice, the amount of the annual revenue or rent payable therefor; or,

(b) when the area of the said estate or tenure has been ascertained, determine the annual value of such estate or tenure to be at such rate per acre as to him shall seem fit.

**28. Summary valuation of small revenue-free estates and rent free tenures of which the area has been ascertained :-**

When the area of any revenue-free estates or rent-free tenure, the gross rental of which does not exceed, or is not estimated by the Collector to exceed., the sum of one hundred rupees, has been ascertained, the Collector may, without issuing any notice for such

estate or tenure, determine the annual value of such estate or tenure to be at such rate per acre as to him may seem fit.

**29. Computation of annual value of land comprised in a subordinate tenure in a summarily valued estate or tenure :-**

When the land contained in any estate or tenure has been summarily valued by the Collector in the manner provided by clause (a) of section 27, the annual value of any portion of such land which is comprised within a tenure subordinate to such estate or tenure shall be determined according to the following rules.

(1) When the subordinate tenure comprises the whole of the estate or superior tenure, the annual value of the subordinate tenure shall be taken to be the same as that of the estate or superior tenure. Example. An estate paying a revenue of Rs 80 is summarily valued by the Collector under clause (a) of section 27 at Rs. 200. The whole estate is let in patni for a rent of Rs 120. The annual value of the patni tenure will be Rs. 200.

(2) When the subordinate tenure comprises a part only of the land constituting the estate or superior tenure

(a) the difference between the annual value of the estate or superior tenure, and the revenue or rent-payable in respect of such estate or superior tenure, shall first be ascertained ;

(b) next, the ratio which such difference bears to such revenue or rent shall be ascertained;

(c) then the amount which bears the same ratio to the rent payable in respect of the subordinate tenure shall be ascertained;

(d) half of the amount so ascertained shall be added to the rent payable in respect of the subordinate tenure; and the result shall be taken to be the annual value of the subordinate tenure.

Example A. An estate paying revenue of Rs. 60 is summarily valued by the Collector under clause (a) of section 27 at Rs. 100. A part only of the estate is let in patni for a rent of Rs. 37.8. The difference between the annual value of the estate (Rs.100) and the revenue paid in respect of it (Rs.60) is Rs. 40. This difference bears a ratio of two-thirds to this revenue (Rs.60). The amount which bears the same ratio (two-thirds) to the rent payable in respect of patni (Rs.37.8) is Rs. 25; add half of Rs. 25 to the rent payable in

respect of the patni tenure, and the result (Rs. 37.8 + Rs. 12.8 = Rs. 50) will be the annual value of the patni tenure.

Example B. Within the patni tenure paying a rent of Rs. 37.8 as in Example A, is a darpatni tenure paying a rent of Rs. 27. The difference between the annual value of the patni tenure ascertained as above (Rs. 50) and the rent payable in respect of the patni (Rs. 37.8) is Rs. 12.8, which bears a <sup>1</sup> ratio of one third to the said rent

The amount which bears the same ratio (one-third) to the rent payable in respect of the darpatni (Rs. 27) is Rs. 9; add half of Rs. 9 to the rent payable in respect of the darpatni, and the result (Rs. 27 + Rs. 4.8 = Rs. 31.8) will be the annual value of the darpatni tenure.

1. Word subs by Act 1 of 1903.

**30. When such land may be valued according to rate per acre :-**

When the land contained in any estate or tenure has been summarily valued according to a rate per acre, under clause (b) of section 27, or under section 28, the annual value of the land comprised in any subordinate tenure shall be taken at the same rate per acre as that of the estate or superior tenure.

**31. Holder of summarily valued estate or tenure may lodge return :-**

The holder of any estate or tenure which has been summarily valued under section 27 or 28, may, within one month from the posting of the valuation-roll in respect thereof under section 35, lodge a return in the form in Schedule A contained in regard to such estate or tenure, and thereupon such return shall be deemed to be a return made as required by section 16 and shall be dealt with accordingly.

**32. Collector may value small estate or tenure by regular process :-**

Instead of proceeding to value any estate or tenure summarily under the provisions of section 27 or 28, the Collector may, if he thinks fit, cause a notice to be served in respect of any such estate or tenure in the Form No. I in Schedule B contained, or in the Form No. II in the said Schedule contained as the case may be, and thereupon all the provisions of this Part shall apply in the same way as they would have applied if the annual Government revenue or rent payable in respect of such estate or tenure had exceeded one hundred rupees. Lands used for Tea, Coffee or Cinchona.

### **33. Return of plantations, etc :-**

In the case of lands acquired under any rule issued by, or under the authority of, the Government for the sale, lease, grant or clearance of waste-lands, or held directly from Government, and used for the cultivation of tea, coffee, or cinchona, the Collector shall, in lieu of the notice prescribed by section 16, cause a notice to be served calling on the holder of such lands to lodge, within two months of the service of such notice, a return in the form in Schedule C contained, giving the particulars in such form set forth ; and the annual value of such lands shall be fixed at ten rupees in respect of every acre therein entered as cultivated, unless the Board of Revenue shall in any particular case prescribe a lower rate. The provisions of sections 18 and 21 shall apply to all lands in respect of which a notice has been issued under this section. Publication of Valuation-rolls and Duration of Valuations.

### **34. Valuation-rolls to be prepared :-**

Whenever any valuation or revaluation is made under this Part, the Collector shall cause to be prepared from the returns furnished to him and from the valuations made by him in accordance with this Act a valuation-roll of each estate within his district and of the tenures therein comprised, noting thereon for each estate the amount of revenue annually payable to Government on which the deduction specified in section 41 is to be calculated. On the application of any holder of an estate or tenure or holding, and on payment of such copying fee as the Board of Revenue shall from time to time determine, the Collector shall cause to be furnished to such holder a copy or corrected copy of so much of any such returns, and of any such roll, as relates to the lands included within his estate, tenure or holding.

### **35. Publication of rolls :-**

On the completion of every roll prescribed under this Part, the Collector shall cause a copy thereof to be pasted up at the mal-cutcherry of the estate to which such roll refers,, and shall cause extract of such portions of any such roll as refer to any tenure to be posted up at the mal-cutcherry of such tenure:

Provided that, if no such mal-cutcherry be found, such roll and such extracts shall be posted up at some conspicuous places on the estate and tenures respectively to which they refer, and that, if such estate or tenure cannot be found, such roll and such extracts shall be posted at some conspicuous place in any village in which

such estate or tenure is believed to be situate.

The person who is entrusted with the publication of any such return shall obtain an acknowledgment in writing signed by two persons who may be either respectable residents of the neighborhood, or chaukidars, or other <sup>1</sup> [servants of the Government], to the effect that such return was duly published on the spot, and shall give in such acknowledgment to the Collector.

1. Words subs, by the Government of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order," 1950, respectively.

**36. Valuation and revaluation to be in force for five years :-**

Except as otherwise in this Part expressly provided, every valuation and revaluation made under this Chapter shall remain in force for the term of five years from the date fixed by the <sup>1</sup> [Board of Revenue] under section 12 as the date from which the cess leviable in pursuance thereof shall take effect, and thereafter, until another revaluation and assessment in substitution thereof shall have been ordered and completed.

1. Words subs.' in Western Bengal by Ben. Act 4 of 1910 and in Eastern Bengal by Ben. Act 5 of 1915.

**37. Collector may reduce valuation and may value and assess omitted and newly-formed estates and tenures :-**

Nothing in section 36 contained shall be held to debar the Collector, with the sanction of the <sup>1</sup> Commissioner from making at any time any reduction which he may think fit in the valuation of any estate or tenure; or from making a valuation of and assessing and levying cess under the rules laid down in this Part upon any estate or tenure which for any reason whatever has been omitted from the valuations and assessments for the time being in force, or which was not in existence when such valuation or assessment was made.

1. Words subs, by Act 5 of 1915.

**CHAPTER 2A**

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**37A. . :-**

Rep. by Ben. Act 11 of 1943

**37B. . :-**

Rep. by Ben. Act 11 of 1943

**37C. . :-**

Rep. by Ben. Act 11 of 1943

**37D.** . :-

Rep. by Ben. Act 11 of 1943

**37E.** . :-

Rep. by Ben. Act 11 of 1943

**37F.** . :-

Rep. by Ben. Act 11 of 1943

**37G.** . :-

Rep. by Ben. Act 11 of 1943

**37H.** . :-

Rep. by Ben. Act 11 of 1943

**37I.** . :-

Rep. by Ben. Act 11 of 1943

CHAPTER 3

Rating and Levy of the Cesses

**38. Rate at which road cess shall be levied, how to be fixed**  
:-

**<sup>1</sup>** The road cess for each year shall be assessed and levied in each district provided in section 6 and (subject to the maximum rate in that section mentioned) at such rate as may be determined for such year by the District Board.

1. Sec. 38 was subs, by Ben. Act 3 of 1885.

**39. Rate at which public works cess shall be levied, how to be fixed** :-

The public works cess for each year shall be assessed and levied in each district as provided in section 6, and subject to the maximum rate in that section mentioned, at such rate as the **<sup>1</sup>** [State Government] may determine for such year.

1. Words subs, by the Government of India (Adaptation of Indian Laws) Order. 1937 and the Adaptation of Laws Order. 1950, respectively.

**40. Notice showing amount of cess payable to be served on zamindars** :-

When the rate of road cess and public works cess to be levied in any district shall have been determined for any year and published in the **<sup>1</sup>**[Official Gazette] **<sup>2</sup>** \*\*\*\*\*,the Collector of the district shall cause the rate so determined to be published by affixing a notification in some conspicuous place in the office of the said

Collector, in every Civil Court, in every police-station, and in the office of every Subdivisional Officer' within the district, and shall cause such rate to be proclaimed by beat of drum throughout the district, and shall cause to be served on the holder of every estate within the district a notice showing the amount of road cess and public works cess payable in respect of his estate, and specifying the date from which such road cess and public works cess will take effect:

Provided that it shall not be necessary to serve such notice, when no change has been made in the valuation of the estate or in the rate of road cess or public works cess since the issue of the last notice under this section.

1. Words subs, by the Government of India (Adaptation of Indian Laws) Order, 1937.
2. Words omitted by Ben. Act 3 of 1885.

#### **40A. Recovery of cess from tenures in Government estates**

:-

**1** Notwithstanding anything in the definitions of "estate" and "tenure" in section 4 or elsewhere in this Act contained, the Board of Revenue may direct that any land (other than the holding of a cultivating raiyat) of which the rent or revenue is payable directly to the Government as proprietor thereof shall, for the purposes of this Part, be deemed to be a tenure and not an estate, and that the Government shall be deemed to be the holder of the estate within which such tenure is included and thereupon the Collector may recover any sum payable from such tenure under the provisions of this Act, in the same manner and under the same penalties as if the same were arrears of rent or revenue due to him.

1. Sec. 40A ins. by Ben. Act 2 of 1881.

#### **41. Mode of payment of road cess and public works cess :-**

Except as otherwise in this Act provided,

(1) every holder of an estate shall yearly pay to the Collector the entire amount of the road cess and public works cess calculated on the annual value of the lands comprised in such estate, at the rate or rates which may have been determined for such cesses respectively for the year as in this Act provided, less a deduction to be calculated one-half of the said rates for every rupee of the revenue entered in the valuation-roll of such estate as payable in respect thereof;



(2) every holder of a tenure shall yearly pay to the holder of the estate or tenure within which the land held by him is included the entire amount of the road cess and public works cess calculated on the annual value of the land comprised in his tenure at the rate or rates which may have been determined for such cesses respectively for the year as in this Act provided less a deduction to be calculated at one-half of the said rates for every rupee of the rent payable by him for such tenure;

(3) every cultivating raiyat shall pay to the person to whom his rent is payable one-half of the said road cess and public works cess <sup>1</sup> Notwithstanding anything hereinbefore in this section contained, all persons to whom chaukidari chakran lands have been transferred under Part II of the Village Chaukidari Act, 1870, or the heirs or assigns of such persons, shall yearly pay to the Collector the entire amount of the road cess and public works cess calculated on the annual value of such lands at the rate or rates which may have been determined for such cesses respectively for the year as in this Act provided, less a deduction to be calculated at one-half of the said rate or rates for every rupee of the assessment approved under the said part as payable in respect of such lands.

1. This para; ins. by Ben Act 4 of 1910.

#### **42. Time of payment by holder of an estate :-**

(1) Every holder of a revenue-paying estate shall pay the amount of road cess and public works cess due by him in equal instalments on the several days fixed <sup>1</sup>[under the provisions of section 3 of Act 11 of 1859 , or of any similar Act at the time being in force for the payment of arrears] of revenue due in respect of his estate, or, if such revenue be payable in one annual sum, then on the day fixed for the payment of such sum.

(2) Every holder of, a revenue-free estate shall pay the amount of road cess and public works cess due by him in two equal instalments or in one annual payment upon such days or day as shall be for that purpose appointed by any order of the <sup>2</sup>[Bpard of Revenue].

(3) Every holder of a rent-paying tenure, and every cultivating raiyat shall pay the amount of road cess and public works cess due by him in instalments in the proportion of the instalments of rent payable in respect of the tenure of holding of such tenure-holder or

raiyyat:

Provided that in cases in which, according to local usage or to the terms of any agreement, no part of such rent falls due before the end of the year on account of which it is payable, the tenure-holder or raiyyat shall pay the amount of road cess and public works cess due by him in two equal instalments upon such days as shall be for that purpose appointed by any order of the <sup>3</sup> [Board of Revenue].

1. Words and figures subs. by Ben. Act 2 of 1881.
2. Words subs, by Ben. Act 5 of 1915.
3. Words subs, by Ben. Act 5 of 1915.

#### **43. Distribution of valuation in case of partition :-**

In case of partition of an estate being effected under <sup>1</sup>[the Estates Partition Act, 1897], or any similar Act, after valuation of such estate and while such valuation remains in force, the total valuation of the original estate shall be distributed proportionately <sup>2</sup>[to the land-revenue] under the order of the Collector over the newly-formed estates whereupon the newly formed estates shall, for the purposes of this Act, take the place of the original estate, the liability to pay cess in respect of each newly-formed estate being separate and distinct from the liability to pay cess in respect of any other of such newly-formed estates. Such separate liability shall take effect from the same date as the separate liability of the newly-formed estates respectively in respect of land- revenue. The procedure prescribed by sections 34 and 35 shall be followed whenever a redistribution of the valuation is made in consequence of a partition as mentioned in <sup>3</sup> [this section].

1. Words and figures subs, by Ben. Act 1 of 1939.
2. Words ins. by Ben. Act 2 of 1881.
3. Words subs, by Ben. Act 2 of 1881.

#### **44. Effect of opening separate account under Act XI of 1859 or Bengal Act VII of 1876 :-**

(1) When a recorded sharer of a joint revenue- paying estate has opened a separate account under Act XI of 1859, or under section 70 of Bengal Act VII of 1876 or any similar law for the time being in force for the regulation of the opening and maintaining of such separate accounts, he shall be entitled, in regard to the payment and realization of road cess and public works cess under this Act, to all the advantages of separate liability enjoyed by him under the said Act XI of 1859 and Bengal Act VII of 1876 in regard to the

payment and realization of revenue, and shall be entitled to separate assessment and to the issue of separate notices under this Act from the date on which such advantages shall take effect in respect of the demand of Government revenue.

(2) Whenever any such separate account is opened after the valuation of an estate, and while such valuation remains in force, the Collector shall issue a notice on the holders of the shares severally, in respect of which the account are to be kept separately, informing them that, unless any objection is preferred to the Collector within one month of the service of such notice, the amount of the cesses which the whole estate is liable to pay according to the existing valuation will from the date on which such separate accounts were opened, be apportioned among such shares severally in

(3) If no such objection be preferred within the time specified, such proportionate amount shall be the amount of the cesses for which the respective holders of such several shares are primarily liable as mentioned in section 13 of Act XI of 1859 subject, however, to the general responsibility of the holders of the entire estate as mentioned in section 14 of the said Act, if the amount of the cesses due on account of any such share cannot be recovered as provided in sections 98 and 99 of this Act from the holders of such share.

(4) If any such objection shall be preferred as aforesaid, the total amount of the cesses for which the whole estate is liable according to the existing valuation shall be apportioned among the several shares in respect of which such separate accounts are opened in proportion to the annual value of such shares respectively under such rules or special instructions, not being inconsistent with this Act, as may be issued by the Board of Revenue; and the holders of such several shares shall be primarily liable as aforesaid for the payment of the amount of the cesses so apportioned on their shares respectively.

<sup>1</sup>(4a) Whenever a recorded sharer of a joint revenue-paying estate applies to the Collector, under section 10 or section 11 of Act XI of 1859 or section 70 of Bengal Act VII of 1876 , for the opening of a separate account of the land-revenue payable by him, he may include in his application a request for the simultaneous opening of a separate account of the road cess and public works cess payable by him.

<sup>1</sup>(4b) The Collector may thereupon issue a notice to each of the several sharers of such estate, simultaneously with the notice issued under any of the aforesaid sections, informing him that, unless any objection is preferred to the Collector within six weeks of the service of the notice, the amount of the cesses which the whole estate is liable to pay will, from the date on which such separate account is opened, be apportioned among such sharers severally, in proportion to the amount of Government revenue for the payment of which each share is entered in the separate account as being liable.

<sup>3</sup> (5) Whenever the separate account of the revenue payable in respect of any share or portion of an estate, as mentioned in clause (1) of this section, shall be closed, the provisions of this section shall cease to have effect in respect of such share.

1. Sub-secs. (4a) and (4b) ins. by Ben. Act 4 of 1910.

3. Sub-sec. (5) ins. by Ben. Act 2 of 1881.

#### **45. Effect of payment or non-payment of cess on or before due date :-**

**1**

(1) A rebate of five per centum of the amount payable as an instalment of road cess and public works cess under Chapter III, IV or VIIA in respect of any estate or tenure, or of the interest of a cultivating raiyat shall be allowed at the time of payment:

Provided that

(a) the instalment is paid in full on or before the due date, and

(b) the annual cess payable in respect of the estate, tenure or interest amounts to fifty rupees or more.

Explanation. The word "estate" as used in this sub-section means, in the case of a payment made in respect of the share or portion of an estate for which a separate account referred to in section 44 has been opened, the share or portion in respect of which the payment is made.

(2) Notwithstanding anything contained in Schedule III to the Bengal Tenancy Act, 1885. if any instalment of road cess or public works cess or part thereof payable to the Collector shall not be paid within thirty days from the date on which the same becomes due, the amount of such instalment or part thereof may be recovered at

any time within six years after it becomes due, with interest at the rate of <sup>2</sup> [six and a quarter] per centum per annum calculated from the date on which such instalment became due with all costs of recovering the same: \* \* \* \* \*

(3) The provisions of sub-section (1) shall not apply to any amount payable as road cess and public works cess in respect of any lands referred to in section 33 or sub-section (4) of section 107D.

1. Sec. 45 subs. by Ben. Act 11 of 1934.
2. Words subs, by Ben. Act 3 of 1939.

**46. With permission of the Board of Revenue, Collector may keep separate account of cesses payable by registered holders of revenue free estates :-**

(1) In any district to which the <sup>1</sup>[Board of Revenue] may specially order that the provisions of this section shall be extended, it shall be lawful for the Collector to keep a separate account in respect of the amount of cesses payable and paid by any holder of a revenue-free estate who is recorded in part I of the Collector's general register of revenue-free lands as proprietor or manager of any specified share or interest in any revenue-free property.

(2) Such separate account shall be opened and kept under such rules as to the levy of fees and other matters, and subject to such conditions and in such manner, as the Board of Revenue may from time to time prescribe; <sup>2</sup>[and the Collector, if he becomes aware that any separate account opened under sub-section (1) does not represent existing facts, may, after service of a notice on the recorded proprietor or manager, and after hearing any objection which may be preferred within six weeks of such service, close the account.]

(3) As long as any separate account shall remain open as provided in the <sup>3</sup> [preceding sub-section], and no longer, the joint liability of the holders of

1. Words subs, by Ben. Act 5 of 1915.
2. Words, figure and brackets subs, in Western Bengal by Ben. Act 4 of 1910 and in Eastern Bengal by Ben. Act 5 of 1915.
3. Words subs, by Ben. Act 1 of 1939.

**47. Recovery by holders of estates or tenures :-**

Every holder of an estate or tenure to whom any sum may be payable under the provisions of this Act may recover the same with

interest at the rate of <sup>1</sup> [six and a quarter] per centum per annum in the same manner and under the same penalties as if the same were arrears of rent due to him.

1. Words subs, by Ben. Act 3 of 1939.

**48. Recovery from co-sharer-holders :-**

Any shareholder in an estate or tenure who may have paid the road cess or public works cess payable in respect of such estate, tenure or any part thereof in excess of the amount proportionate to his own interest in such estate or tenure, may recover from his co-sharers such sums as he may have paid on account of their respective shares and interests, in the same manner and under similar penalties, or may take credit for such sums in any adjustment of accounts between himself and his co-sharers.

**49. Recovery by recorded share-holders from their co-sharers by certificate process :-**

Wherever any shareholder in an estate who is recorded in the general register of revenue-paying and revenue-free lands maintained by the Collector, or whenever any shareholder in an estate the extent of whose share or interest in such estate is recorded in any other register kept up by the Collector of lands paying revenue or rent to the Collector direct, shall have paid the road cess or public works cess payable in respect of such estate, or any part thereof in excess of the amount proportionate to his own interest in such estate, <sup>1</sup>h e may, within <sup>2</sup>[six weeks] of such payment being made, move the Collector to make a certificate as provided by any law for the time being in force for the recovery of public demands, specifying the amount which has been paid in by such shareholder as cess in respect of the recorded share or interest of any other shareholder in the estate; <sup>3</sup> he may, within fifteen days of such payment being made, move the Collector to make a certificate as provided by any law for the time being in force for the recovery of public demands, specifying the amount which has been paid in by such shareholder as cess in respect of the recorded share or interest of any other shareholder in the estate; and thereupon such Collector may, if he thinks fit, make such certificate, and such certificate shall have the same effect as a certificate made for the recovery of a public demand; and the same notices shall be issued and the same proceedings may be taken thereon as in case of such certificate:

Provided that the person in whose favour the certificate has been

made shall be deemed to be the decree-holder for the sum mentioned in the certificate; and all proceedings taken by the Collector for the recovery of the sums mentioned in the certificate shall be taken at the instance of the person in whose favour the certificate has been made, and on his responsibility, and not otherwise:

Provided also that, if any person against whom such certificate has been made shall object that the amount of the cesses for the recovery of which the certificate has been made is greater than the amount which the applicant for the certificate would recover from such person in a Civil Court as being equitably payable in respect of such person's share or interest in the estate, and if in the opinion of the Collector there is probable ground for such objection, the Collector may, if he see fit, cancel such certificate, and leave the applicant to his remedy in the Civil Court.

1. This clause is in force in Western Bengal,
2. Words subs, by Ben. Act 4 of 1910.
3. This clause is in force in Eastern Bengal.

#### CHAPTER 4

Valuation And Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof

### **50. Rent-free lands in what estates or tenures to be included for the purposes of this Act :-**

All lands held <sup>1</sup>[rent-free] other than lands mentioned in section 33, and other than estates entered on the general register of revenue-free lands of the district, shall, for the purposes of this Act, be deemed to form a part of any tenure within the local boundaries of which they were contained; and if they are not contained within the local boundaries of any tenure, then to form a part of any estate within the local boundaries of which they are contained; and if they are not contained within the local boundaries of any estate, then to form a part of the estate in which they were included at the original settlement of such estate; and if there be any doubt as to the estate in which they were so included, then to form a part of such conterminous estate as the Collector, in whose district such conterminous estate is situate, shall by an order under his seal appoint:

<sup>2</sup> Provided that where in a valuation or revaluation of lands made under Chapter VILA any such lands is recorded in the last finally published record- of-rights as comprised within any estate or

tenure, it shall be deemed to form part of the estate or tenure in which it is so recorded, unless the Collector orders that in any particular case such land shall be included in some other estate or tenure or that the cess shall be payable direct to the Collector or to any other person on his behalf.

1. Words subs, by Ben. Act 11 of 1934.
2. This proviso ins. by Ben. Act 11 of 1934.

**51. Holders of estates and tenures bound to return rent-free lands and to pay cess at half rates for such lands included therein :-**

Every holder of an estate or tenure who is required by this Act to submit a return in the form in Schedule A contained shall be bound to enter in such return all lands of the nature of those specified in section 50 according to the tenor thereof; and shall be bound to pay road cess and public works cess on the annual value of such lands at one-half of the rates fixed under this Act for the levy of such cesses respectively, in the district generally for the year.

**51A. Information regarding rent-free lands :-**

**1**

(1) Every owner, holder or occupier of any rent-free land shall be bound to give on demand to the Collector or to the holder of the estate or tenure within which such land is, for the purposes of this Act, included or to his authorised agent all information in his possession regarding the area, situation and description of the land and the names and addresses of all persons owning, holding or occupying it as may be reasonably required for the purpose of the collection or recovery of the cess due on such land.

(2) If any such owner, holder or occupier of rent-free land fails without reasonable excuse to comply with such demand within three months after receiving the same, he shall be liable to a fine not exceeding one hundred rupees, and the provisions of sub-sections (3) to (7) of section 58 of the Bengal Tenancy Act, 1885, shall, so far as may be, apply to the imposition and recovery of the fine.

(3) The Collector may, either on the application of the holder of the estate or tenure within which such rent-free land is included, or of his own motion, summon the owner, holder or occupier of any rent-free land to furnish him with the information referred to in sub-section (1) and such owner, holder or occupier shall furnish such



information so far as the same may be in his possession.

(4) For the purpose of sub-section (3) the Collector shall have power to summon, and enforce the attendance of, witnesses, and compel the production of documents, in the same manner as is provided in the case of a Court under the Code of Civil Procedure, 1908.

1. Sec. 51A ins. by Ben. Act 11 of 1934.

**52. Notice and extracts of valuation-roll to be published by Collector in respect of such rent-free lands :-**

Whenever any lands held rent-free shall have been included in the return of any estate or tenure as provided in the last preceding section, the Collector shall, on publication of the valuation-roll of such estate or tenure as provided in section 35, cause to be published a notice in the form in Schedule D contained, to which notice shall be annexed such extracts from the valuation-roll of such estate or tenure as relate to such lands. Such publication may be lawfully made by affixing one copy of such notice and extracts at some conspicuous place in every village within which any such lands are situate, by depositing another copy of the same at any police-station, registration-office or other Government office in the neighbourhood for the inspection of all concerned. and by proclamation as herein next provided. The proclamation shall be made by beat of drum throughout every such village, and shall be to the effect that such extracts have been so affixed and deposited, and that the owners and holders of such lands are required to inform themselves, by inspection on such extracts of the valuation put upon their lands, and to pay yearly to the holder of the estate or tenure in the return of which such lands are included the cesses which shall be payable in respect of such lands under the provisions of this Act.

**52A. Certificate of publication of notices under section 52 :-**

<sup>1</sup> Whenever any notice has been duly published under section 52, the Collector shall sign a certificate to that effect, and such certificate shall be conclusive proof that the publication has been duly made.

1. Sec. 52A ins. by Ben. Act 4 of 1910.

**53. Holder of rent-free land may object to valuation :-**

Within a reasonable time not exceeding thirty days after the issue of any process for the recovery of any sum due from him as cess

under this chapter, the owner, holder or occupier of any such land may make before the Collector an objection to the valuation of his land as entered in the valuation- roll so published, and on such objection being made the Collector shall by such ways and means as to him shall seem expedient, ascertain and fix the annual value of the land in the possession of such owner, holder or occupier, and may alter such roll accordingly, and shall give notice of any such alteration to the holder of the estate or tenure to which such roll relates:

Provided that nothing in this section shall be taken to authorize the Collector to alter any return so as to show any area of land as held rent-free which the maker of such return can show to be accosted for by him in the return as rent-paying land.

#### **54. Notice to be published by holders of estate in certain cases :-**

In the following cases, that is to say:

(1) whenever a new valuation or re-valuation takes effect in any district or part of a district;

(2) whenever the rate fixed for the levy of the road cess or of the public works cess in any year is changed from the rate at which such cess was levied in the preceding year; and

(3) whenever the dates fixed by the <sup>1</sup>[Board of Revenue] under section 57 for payment of instalments of the cesses by holders of rent-free land are changed, the holder of every estate or tenure to whom any cesses are payable in respect of lands held free of rent shall cause a notice to be published in every village in which any such lands are situate, informing all concerned of the rate which has been fixed for the levy of such cesses respectively; and requiring every owner and holder of any such land of which the cesses are

<sup>2</sup>(1) a statement of the quantity, <sup>3</sup>(1) a specification of the land in or a description, of the land, as entered in the Collector's valuation- roll;

(2) the name of the owner, holder or occupier of such lands if known;

(3) the annual value of such land as entered in the Collector's valuation- roll;

(4) the rate on each rupee of the annual value which has been fixed under the Act for the levy of the road cess and public works cess respectively for the year;

(5) the amount of the cesses payable in respect of each tenure or holding, calculated at such rates; and

(6) the dates fixed by the <sup>4</sup> [Board of revenue] under section 57 for the payment of each instalment, together with the amount of each instalment.

1. Words subs, by Ben. Act 5 of 1915.

2. Clause (1) is in this form in Western Bengal.

3. Clause (1) is in this form in Eastern Bengal.

4. Words subs, by Ben. Act 5 of 1915.

### **55. Mode of publication :-**

Publication of the notice above-mentioned may be lawfully made by affixing one copy of the same at some conspicuous place in every village in which any such land is situate; by depositing another copy thereof to be available for general inspection any mal-cutcherry of the estate or tenure in which such land is included, or at any other convenient place in the neighbourhood; and by proclamation as herein next provided. The proclamation shall be made by beat of drum throughout such village, and shall be to the effect that such notice has been so affixed and so deposited that it is open to inspection at the mal-cutcherry or other convenient place as above-mentioned, and that every owner and holder of rent-free land is required to inform himself of the contents of such notice and to pay the amount of the cesses due by him accordingly.

### **56. Owner of rent-free land bound to pay cess at full rate :-**

After publication of the extracts from the roll as provided in section 52, and in cases in which publication of the notice mentioned in section 54 is required, after publication of such notice, and not otherwise, every owner and holder of any rent-free land included in such extracts, and every person in receipt of the rents and profits or in possession and enjoyment of such land, shall be bound to pay year by year to the holder of the estate or tenure in the return of which such land has been included the amount of the road cess and public works cess which may thereafter become due to such holder, calculated on the annual value of such land as entered in such extracts or on any other annual value which may have been determined by the Collector under section 53, at the full rate or rates which may have been fixed under this Act for the levy of such

cesses respectively in the district generally for the year.

**57. Instalments to be fixed by Board of Revenue :-**

The payment of the cesses for each year by the holder of any land which is held rent-free shall be made by two equal instalments, or in one payment, upon such days or day as shall be for that purpose fixed by the <sup>1</sup> [Board of Revenue].

1. Words subs, by Act 5 of 1915.

**57A. Place of payment or tender of cess :-**

**1**

(1) The provisions of section 54 of the Bengal Tenancy Act, 1885, regarding payment or tender of rent at the landlord's village office or other convenient place or by postal money order shall apply to the payment or tender of cess by the owner, holder or occupier of rent-free land, as if the person to whom the same is payable under this Act is his landlord.

(2) The provisions of section 56 of the Bengal Tenancy Act, 1885, regarding the grant of rent-receipts shall apply to the payment of cess by the owner, holder or occupier of rent-free land as if the person to whom the cess is payable under this Act is his landlord.

1. Sec. 57A ins. by Ben. Act 11 of 1934.

**58. If instalments not paid within a month, double the amount may be recovered :-**

When an instalment of the cesses due on any rent free land is not paid <sup>1</sup>[or tendered] to the holder of the estate or tenure to whom it is due within one month of the date on which such instalment is payable, such holder shall be entitled to recover a sum equal to double the amount of such instalment due to him under sections 56 and 57, with interest on such sum calculated at the rate of <sup>2</sup> [six and a quarter] per centum per annum from the date on which such instalment was payable, and with all costs of suit:

Provided that such holder shall have paid to the Collector all sums due to such Collector up to date in respect of road cess and public works cess, and not otherwise.

1. Words ins by Ben. Act 11 of 1934.

2. Words subs, by Ben. Act 3 of 1939.

**59. Holders of estates, etc., may send in supplementary returns in respect of rent-free lands :-**

If the holder of any estate or tenure shall have omitted to enter in his return (whether such return was made under Bengal Act X of 1871, or under this Act ) any rent-free land which he was bound to enter in such return, such holder may at any time after the passing of this Act give in to the Collector a supplementary return showing the necessary particulars in respect of the land so omitted in the form given in Part IV of Schedule A, and shall thereupon pay to the Collector the amount of the cesses which would have been payable by him to such Collector in respect of such land for the three years next preceding, or for any shorter period which may have elapsed since the estate or tenure was last valued.

**60. Effect of supplementary returns :-**

Such supplementary return shall to all intents and purposes have the same effect as a return duly made under the provisions of section 51; and sections 51 to 56, (both inclusive) shall be applicable to and in respect of any rent-free land included in such supplementary return.

**61. Sections applicable to amounts payable by owner, etc., of rent free land :-**

The provisions of sections 57 and 58 shall be applicable to every amount which, as provided in section 56, may become payable by the owner and holder of any such rent-free land to the holder of any such estate or tenure after the fulfilment of the requirements in sections 52, 53 and 54 contained.

**62. Section 58 not applicable to such amounts until sections 52, 53 and 54 are complied with :-**

The provisions of section 58 shall not be applicable to any such amount which may have become so payable under the provisions of <sup>1\*\*\*</sup> this Act before the fulfilment of the requirements of the section 52, 53 and 54; but, when any instalment of cess which may have become payable before the fulfilment of such requirements has not been paid to the holder of such estate or tenure on the date on which such instalment was payable, the holder of such estate or tenure may recover the amount of such instalment, together with interest at the rate of <sup>2</sup> [six and a quarter] per centum per annum on such amount, and with all costs of suit: Provided that no holder of an estate or tenure shall recover any amount under the provisions of this section unless he has paid to the Collector all sums which became payable by him to such Collector on account of road cess and public works cess at any date

within the year in which the amount sought to be recovered became payable to such holder of an estate or tenure.

1. Words and figures "Bengal Act X of 1971, or of repealed by Ben. Act 1 of 1939.
2. Words subs. by Ben. Act 3 of 1939.

**63. Owner of rent-free land liable to pay cess in future :-**

As soon as the said requirements shall have been fulfilled in respect of any such land which is included in any such supplementary return, every owner and holder of such land and every person in receipt of the rents and profits, or in possession and enjoyment of such land, shall be bound to pay the amount of the road cess and public works cess which may thereafter become due on such land to the holder of the estate or tenure, in the supplementary return of which such land has been included. Sections 56 and 57 and 58 shall be applicable to the cesses so payable.

**64. Additional return of rent-free land entered in return under Bengal Act X of 1871 may be made :-**

(1) Every holder of an estate or tenure who has included any rent-free lands in any return made to the Collector in respect of his estate or tenure under the provisions of the Bengal Act X of 1871 and has paid to the Collector any cess payable under the

(2) Such additional return shall be deemed to be a supplementary return within the meaning of section 59, and from the date of the inclusion of any such lands in such additional return the same consequences shall ensue, and the same rights and obligations accrue to the Collector and to the holder of such estate or tenure, and the same liabilities shall attach to the owner, holder and occupier of such lands, as would have attached to them respectively if such lands had been included in a supplementary return given in under section 59.

**64A. Holders of estates, etc., how to recover from holders of rent-free lands :-**

<sup>12</sup>[Notwithstanding anything contained in Schedule III to the Bengal Tenancy Act, 1885,] all sums due to the holder of any estate or tenure under the provisions of this chapter <sup>3</sup>[or of Chapter VILA], in respect of any land held rent-free, may be recovered by such holder from any owner or holder of such rent-free land, or from any occupier of the same <sup>3</sup>[within six years from the date on which such sums became due], by any means and any

process by which the amount might be recovered if it were due on account of rent of a transferable tenure or holding 5 \* \* \* \* :

Provided that, if any such objection as is mentioned in section 53 has been made before the Collector, no proceedings shall be commenced, and no proceedings which have been commenced shall be continued, for recovery of cess in respect of the lands which are the subject of such objection, until such objection shall have been disposed of by the Collector.

1. Sec. 64A ins. by Ben. Act 7 of 1881.
2. Words and figures ins. by Ben. Act 11 of 1934.
3. Inst. by Ben. Act 11 of 1934.
5. Words "and subject to same rules as to limitation" omitted by Ben. Act 11 of 1934.

**64B. Owner, holder or occupier of rent-free lands may be sued :-**

**<sup>1</sup>** Decree against occupier tantamount to decree against owner. In every suit for the recovery of any such sum, the person to whom the sum is due may proceed at his option either against the owner or holder of the rent- free land in respect of which such amount is due, or against the occupier thereof; and any decree obtained in such suit against any occupier of such land shall have the same effect and be followed by the same consequences in respect of the execution of such decree against the owner or holder of such land, and in respect of the sale of such land in such execution, as if the suit had been brought and the decree given against such owner or holder of such land, but shall have effect against such occupier personally so long only as he remains in occupation of such land, and no longer.

1. Sec. 64B ins. by Ben. Act 7 of 1881.

**65. Occupier may deduct cess paid from rent :-**

Whenever any occupier of land which is held rent-free by the owner thereof shall have paid any sum as cess due in respect of such land to any holder of an estate or tenure to whom such cess is payable, such occupier shall be entitled to deduct the sum so paid by him from the rent next thereafter payable by him to the owner of such land, until such sum is fully adjusted.

**66. Notice to be served on holder of rent-free land requiring him to lodge return :-**

Notwithstanding anything in this chapter contained, the Collector

may at any time cause a notice as mentioned in section 16 to be served on the holder of any rent-free land which he shall consider not to have been entered in the return of any estate or tenure in which such land ought to have been included under the provisions of section 51. Such notice shall require the holder of such land to lodge at the office of the said Collector a return in the form in Schedule A contained in respect of such land; and on service of such notice the provisions of this chapter shall no longer apply to such lands; but the same consequences shall ensue and the same liabilities shall attach to the holder of such land as would have ensued and would have attached if such lands had constituted a revenue-free estate. If the Collector has reason to believe that any land in respect of which he determines to serve such notice has been included in the return of any estate or tenure, he shall give notice of his intention to the holder of such estate or tenure, and shall alter such return as may be requisite, and shall correct the valuation and assessment of such estate or tenure as may be required.

**67. If no notice served, such holder bound to notify omission to Collector :-**

If within one year of the commencement of this Act no notice has been served as mentioned in section 66 on the holder on any rent-free land requiring him to lodge a return in the office of the Collector, and if such land has not been included in any extracts from the returns of estates and tenures published by the Collector under section 52 or other similar section, the holder of such rent-free land shall be bound within one month of the expiration of such year to give information of such omission to the Collector, together with a description of the said land, a specification of the village or villages within which it is situate, the area in each village, and the amount of rent payable to him thereupon:

Provided that no holder of rent-free land who at anytime after the expiration of the time prescribed shall of his own motion and otherwise than after the issue of any notice by the Collector in respect of his lands give such information to the Collector shall be liable to prosecution for omitting to give such information within the prescribed time.

**68. Collector thereupon may require such holder to make return :-**

On receipt of such information, whether within the time prescribed



or after the expiration thereof, the Collector may, by an order in writing, require such owner or holder to make a return of his land in the form in Schedule A contained, or, if the gross rental of such land does not exceed one hundred rupees, may order that such land shall be summarily valued under section 27 or section 28, and may proceed to make such valuation.

**69. Order to have effect of notice :-**

Every order made by a Collector under the last preceding section shall have the same effect and be followed by the same consequences as the issue of a notice by the Collector under section 66.

**70. Liability of such holder to pay arrears of cesses :-**

As soon as any rent-free land which had not previously been included in the valuation of any estate or tenure, has been valued by the Collector after the issue of a notice as provided in section 66, or after an order made under section 68, the holder of such land shall become liable to pay to the Collector the road cess and the public works cess due on such land, in accordance with such valuation, for the three years last preceding such valuation, at the full rates at which such cesses were respectively levied for each such year in the district generally, together with interest calculated at <sup>1</sup> [six and a quarter] per centum per annum on each instalment from the date on which such instalment would have been payable if such valuation had been in force.

1. Words subs, by Ben. Act 3 of 1939.

**71. Such holder is not liable to pay cesses except to Collector or his Deputy :-**

No owner or holder of rent-free land on whom a notice has been served by the Collector under section 66, or in respect of whose land, an order has been made by the Collector under section 68, shall be liable to have the land to which such notice or order refers included in any return of an estate or tenure, or to pay any amount as road cess or public works cess otherwise than to the Collector or to some person appointed by him in that behalf, unless, on a re-valuation of any estate or tenure being made, the Collector shall by an order in writing direct that for the future such land shall be included within such estate or tenure for the purposes of this Act; and, upon such order being made, the provisions of this chapter, in so far as they are applicable, shall apply to the assessment and payment of road cess and public works cess in respect of such land.

## CHAPTER 5

Valuation, Assessment and Levy of Cesses on Mines, Railways and other Immovable Property

### **72. Notice to return profits :-**

On the commencement of this Act in any district and thereafter before the close of each year, the Collector of the district shall cause a notice to be served upon the owner, chief agent, manager or occupier of every mine, quarry, tramway, railway other immovable property not included within the provisions of Chapter II <sup>1\*\*</sup>: such notice shall be <sup>2</sup>[<sup>3</sup>(in the case of all mines and quarries) in form No. I in Schedule E contained and in any other case, in form No. II in the said Schedule contained] and shall require such owner, chief agent, manager or occupier to lodge in the office of such Collector within two months a return <sup>2</sup>[87(, in the case of all mines and quarries, of the annual despatches from such mines and quarries,) and in the case of any other property, of the annual net profits of such other property,] calculated on the average <sup>5</sup> \* \* \* \* \* for the last three years for which accounts have been made up. Such Collector may in his discretion extend the time allowed for lodging such return.

1. Words repealed by Ben. Act 1 of 1939.
2. Words within square brackets subs. by W.B. Act 23 of 1964.
3. Words within first brackets subs. by W.B. Act 32 of 1984.
5. Words omitted by W.B. Act 23 of 1964.

### **72A. Penalty for omitting to lodge a return :-**

**1**

(1) Any owner, chief agent, manager or occupier who, without sufficient cause being shown to the satisfaction of the Collector, refuses or omits to lodge the required return in the office of the Collector within two months from the date of the service upon him of a notice under section 72, or within any extended time which may have been allowed by the Collector for lodging such return, shall be liable to a fine which may extend to fifty rupees for every day after expiration of such time or extended time until such return is furnished, or until <sup>2</sup> [the annual despatches or the annual net profits, as the case may be, in respect of the property] in respect of which the notice has been served shall have been otherwise ascertained and determined by the Collector as hereinafter provided.

(2) The amount of such fine accruing due from time to time may be

levied by the Collector as provided in section 98 or section 99, and the fact of an appeal against such fine being pending shall not avail to prevent the levy of any such fine pending the disposal of the appeal, unless the Commissioner otherwise directs.

(3) Whenever the amount levied in respect of any such fine exceeds five hundred rupees, the Collector shall report the case specially to the Commissioner; and no further levy for such default shall be made otherwise than by authority of the Commissioner.

1. Sec. 72A ins. by Ben. Act 4 of 1910.

2. Words subs. by W.B. Act 23 of 1964.

### **73. When property lies in different districts :-**

Whenever any property assessable under this chapter lies in two or more districts, the notice to furnish a return under section 72 shall be served on the owner, chief agent, manager or occupier of such property by or through the Collector of the district in which such owner, chief agent, manager or occupier may reside or have his chief place of business, and one return for the whole of such property shall suffice.

### **74. When property is partly in and partly outside the State :-**

<sup>1</sup>Whenever any property assessable under this chapter lies partly within and partly outside the <sup>2</sup>[State], the return furnished as required by section 72 shall state the <sup>3</sup> [total annual despatches or the total annual net profits, as the case may be, calculated as aforesaid, in respect of the whole of such property and also the portion of such annual despatches or annual profits, as the case may be, which may reasonably be calculated to relate to the portion of such property situated within the State.]

1. Sec. 74 stand unmodified. vide Government of India (Adaptation of Indian Laws) Order, 1937.

2. Words subs. by the Government of India (Adaptation of Indian Laws) Order. 1937 and Adaptation of Laws Order, 1950, respectively.

3. Words subs. by W.B. Act 23 of 1964.

### **75. If return not furnished or incorrect, Collector to make valuation :-**

If such return be not furnished within the period of two months from the date on which such notice was served, or within any extended time allowed by the Collector of the district, or if such Collector shall deem that any return made in pursuance of such

notice is untrue or incorrect, such Collector shall proceed to ascertain and determine by such ways or means as to him shall seem expedient <sup>1</sup> [the annual despatches or the annual net profits, as the case may be, calculated as aforesaid in respect of such property].

1. Words subs. by Act 23 of 1964.

**76. Valuation where compilation of average not possible :-**

<sup>1</sup>If such Collector is unable to ascertain the annual despatches or the annual net profits, as the case may be, calculated as aforesaid, in respect of any property assessable under this Chapter, he may, by such ways or means as to him shall seem expedient

(a) <sup>2</sup> [in the case of all mines and quarries] ascertain and determine the annual despatches therefrom to the best of his judgment having regard to all the circumstances of the case, and

(b) in the case of any other property, ascertain and determine the value of such other property and determine six per centum on such value to be the annual net profits of such other property.

1. Sec. 76 subs. by W.B. Act 23 of 1964.

2. Words subs. by W.B. Act 32 of 1984.

**77. Cost of valuation from whom to be recovered :-**

The expenses incurred in making any valuation under section 75 or section 76 may be recovered together with all costs of the recovery thereof as provided in section 98 from the person who was bound to make such return or who made the incorrect return.

**78. Notice of valuation :-**

So soon as such Collector shall have ascertained and determined <sup>1</sup>[the annual despatches or the annual net profits, as the case may be, in respect of] any such property, he shall cause to be served upon the owner, chief agent, manager or occupier of such property a notice informing him of <sup>2</sup> [the quantity of the annual despatches or] the amount of the annual net profits so ascertained and determined by him.

1. Words subs. by W.B. Act 23 of 1964.

2. Words ins. by W.B. Act 32 of 1984.

**79. Valuations under this chapter to be annual :-**

New valuations under this chapter shall be made by the Collector of the district every year, and such Collector may for that purpose

cause such notices to be issued and served, and such returns to be made, and shall have such powers and authorities as are in this part mentioned and conferred:

Provided that whenever any return made under section 72 <sup>1</sup>[in respect of any property assessable under this Chapter] shall be accepted by the Collector for any year, the owner, chief agent, manager or occupier of such property may, if he see fit, declare in writing at the time of such acceptance that <sup>2</sup>[the annual despatches or the annual net profits, as the case may be,] set forth in such return may, for the purposes of this Act, be deemed to be <sup>2</sup>[the annual despatches or the annual net profits, as the case may be,] for each of the five years then next ensuing: and, if the Collector of the district shall agree to accept such declaration, no new valuation shall be made of such property until the said five years shall have expired:

<sup>4</sup>Provided further that if the Collector is satisfied that though <sup>5</sup>[despatches issued or] net profits accrued, from any property assessable under the chapter, in any previous years no cess was paid in respect thereof the Collector shall proceed to ascertain and determine by such ways or means as to him shall seem expedient <sup>6</sup> [the annual despatches or the annual net profits, as the case may be, in respect of such property] for each such year during a period not exceeding the last preceding three years, and road cess and public works cess shall be payable in respect thereof at the rate determined for each such year, respectively, and the Collector shall add the amount of such cess to the amount shown in the notice to be served under section 80 and such cess shall be payable in two equal instalments as provided in section 80.

1. Words subs. by Act 32 of 1964.

2. Words subs. by Act 23 of 1964.

4. Proviso ins. by Ben. Act 11 of 1934.

5. Words ins. by W.B. Act 23 of 1964.

6. Words subs. by W.B. Act 23 of 1964.

## **80. Notice of rate of cess and date of payments :-**

<sup>1</sup> When the rate of road cess and public works cess to be levied in the district upon property assessable under this chapter shall have been determined for any year is in this Act provided, the Collector of the district shall cause to be served on the owner, chief agent, manager or occupier of every such property notice showing the amount of road cess and public works cess respectively payable in

respect of such property, and specifying the date from which such cesses shall take effect. Such amount shall be payable by such owner, chief agent, manager or occupier to such Collector in two equal instalments within a period of sixty days from the date of service of the notice as aforesaid.

1. Sec. 80 subs. by W.B. Act 35 of 1981.

**81. Recovery by occupier or owner who has paid in excess :-**

In any case in which the occupier of such property is a different person from the owner, and has paid in excess of half of the sum due as road cess and public works cess on account of any instalment, such occupier shall be entitled to deduct the amount of such excess from the next and subsequent instalments of rent payable in respect of such property; and every owner who has paid in excess of half of such sum due shall be entitled to recover the amount of such excess from the occupier:

Provided that in no case shall an occupier deduct from his annual rent more than half of the rate of the road cess and public works cess on every rupee thereof.

**82. How distributed when property in different districts :-**

The total of the cesses payable in respect of property assessable under this chapter owned or occupied by the same person in two or more districts shall be payable to the Collector of the district where the owner, chief agent, manager or occupier may reside or have his chief place of business, and shall be by him transmitted to the Collectors of other districts in the proportion in which the <sup>1</sup> [District Road Funds] of such districts shall be severally entitled thereto, as provided in the section next following.

1. Words subs. by Ben. Act 3 of 1885.

**83. Determination of proportion of profits when property in different districts :-**

Whenever any property assessable under this chapter lies in two or more districts, the <sup>1</sup>[Board of Revenue] shall from time to time determine, out of <sup>2</sup>[the total annual despatches or the total annual net profits, as the case may be,] stated in the return, or in the valuation of <sup>2</sup>[such despatches issuing from, or such profits accruing in, the territories] <sup>4</sup>[within its jurisdiction], and ascertained in any manner as aforesaid, the proportions in which

such property shall be assessed in each of the said districts respectively, and the proportion of the road cess due thereon which shall be assigned to the <sup>5</sup> [District Road Fund] of each district concerned.

1. Words subs. by Ben. Act 5 of 1915.
2. Words subs. by W.B. Act 23 of 1964.
4. Words subs. by Ben. Act 5 of 1915.
5. Words subs. by Ben. Act 3 of 1885.

**84. Service of notices under this chapter :-**

Every notice under this chapter may be served

- (a) by leaving it at the registered office (if any) of such owner, chief agent, manager or occupier aforesaid; or
- (b) by sending it by post in a letter addressed to such owner, chief agent, manager or occupier at his office, or, if he have more offices than one, at his principal office; or
- (c) by giving it to such owner, chief agent, manager or occupier.

**CHAPTER 6**

Special Provisions for [Orissa and] Midnapore

**85. Collectors in [Orissa and] Midnapore may order certain revenue-free estates to be annexed to other estates for purposes of payment of cess :-**

In any district of the [State] of Orissa and] in the district of Midnapore, the Collector may at any time, with the sanction of the Commissioner, order that any revenue-free estate not exceeding five hundred standard bighas in extent, of which the valuation shall have been completed, shall, for the purpose of payment and levy of the cesses due in respect thereof, be annexed to any other estate within the ambit of which it is situate or which it adjoins.

**86. Notice to be given to holder of estate to which such revenue free estate is annexed :-**

Notice of such order shall be given by the Collector to the holder of the estate to which such revenue-free estate is ordered to be so annexed, and to such notice shall be appended a copy of the valuation-roll of the said revenue-free estate, and thereupon such holder shall be liable to pay annually to the Collector, on account of such revenue- free estate, road cess and public works cess at one-half of the rates which may be fixed under this Act for the levy of the said cesses respectively in the district generally for each year.

**87. Notice to be given to holder of revenue-free estate :-**

Notice of such order shall also be given by the Collector to the holder of the said revenue-free estate, and such notice shall require him to pay annually, and he shall thereupon be bound to pay to the holder of such other estate road cess and public works cess at the full rates which may be fixed under this Act for the levy of the said cesses respectively in the district generally for each year.

**88. Cesses payable by holder of revenue-free estate in such instalments as Board of Revenue may direct :-**

Such cesses shall be so payable by the holder of the said revenue-free estates in two equal instalments, on such dates as may be fixed by the [Board of Revenue] under section 42 for the payment of cess by the holders of revenue-free estates, or in such other instalments and on such other dates as the [Board of Revenue] may direct, or, if the [Board of Revenue] shall so order, the whole amount so payable on account of such cesses for each year shall be payable in single sum on any such date as the [Board of Revenue] may appoint. In default of payment as hereby required, the provisions of section 47 shall be applicable.

**89. Notices to be served :-**

Whenever the service of a notice on the holder of a revenue-free estate is required by the provisions of section 40, the Collector shall cause such notice to be served, notwithstanding that the revenue-free estate may have been annexed to another estate as hereinbefore provided; and the Collector shall further cause a notice containing the same particulars to be served in respect of such revenue-free estate on the holder of the other estate to which it is under the provisions of section 85 annexed.

**90. Collector may revoke orders passed under section 85 :-**

The Collector may at any time, with the sanction of the Commissioner, revoke any order passed under section 85, and shall give notice of such revocation both to the holder of the revenue-free estate affected and to the holder of the other estate to which such revenue-free estate was annexed.

**CHAPTER 7**

**Miscellaneous**

**91. Collector may appoint certain establishments :-**

The Collector, with the sanction of the Board of Revenue, may appoint such establishments as may be required for making



valuations and re-valuations under this Act, for making collections, recovering arrears, keeping accounts connected therewith, and generally for all purposes connected with such valuations, re-valuations, collections and recoveries, and other purposes of this Act, and may incur such other expenses as are requisite for such purposes; and the payment of such establishments and other charges on bills signed by the Collector shall be the first charge on the District Road Fund.

**91A. Payment of commission to tahsildars :-**

The Collector may, with the sanction of the Commissioner, pay to any person appointed by him to collect the road cess and public works cess such percentage of the total amount collected by such person as to him may seem fit.

**92. Powers of Collector making valuation :-**

For the purpose of making any valuation of lands directed by this Part, the Collector shall exercise the powers vested in Collectors by clause I of section 23 and clause I of section 24 of Regulation VII of 1822, except so far as the said clauses authorize any inquiry into rights or interests attaching to such lands.

**93. Commissioner or Board may revise valuation :-**

Every valuation under this Part shall be open to revision by the Commissioner or Board of Revenue, and not otherwise.

**94. False returns :-**

**95. Returns evidence against the maker only :-**

Every return filed by or on behalf of any person in pursuance of the provisions of this Part shall bear the signature and address of such person, or his authorized agent, and shall be admissible in evidence against such person, but shall not be admissible in his favour.

**96. Service of notices under this Part :-**

Every notice under this Part required to be served, except as otherwise expressly provided, may be served

(1) by delivering the same to the person to whom it is directed, or, on failure of such service, by posting the same on some conspicuous part of the house in which the said person resides, or by delivering the said notice to any agent authorized to appear generally for the person to whom such notice is directed; or

(2) by sending a registered letter containing such notice directed to

the said person at his usual place of abode or to the place where he may be known to reside; or

(3) by posting a copy of the notice at the mal-cutcherry of the estate or tenure to which the notice relates, or, if no such mal-cutcherry be found, on some conspicuous place on such estate or tenure: and, in the case of estates paying their annual revenue by four instalments, by delivering another copy thereof to the agent who shall have paid an instalment of revenue next after the preparation of such notice. In all cases where two or more persons are holders of an estate or tenure, service of notice under this clause shall be deemed to be good and sufficient service on each and all of such persons.

**97. Costs of service :-**

The costs of service of every notice and process by this Act required to be served shall in the first instance be defrayed from the District Road Fund, and, subject to such rules as may be made by the Board of Revenue under section 106, shall be recoverable either from the person to whom such notice or process is addressed, or from the person owing to whose default such notice or process is issued, as the Collector may think fit; and every such amount shall be deemed to be due to the Collector, but when levied by the Collector shall be credited to the District Road Fund: Provided that no costs or other expenses whatever shall be recovered from any person in respect of the publication or issue of any proclamation or notice calling for any return or giving intimation any amount payable by any person as cess under this Act other than notices of demand to pay any amount of cess which has become due.

**98. Dues under the Act to be levied as public demand :-**

Every amount due, or which may become due, to any Collector under the provisions of this Act in respect of any arrears of cess, of any expenses incurred, of any fee or costs payable, of any notices served, of any fines imposed, or on any other account, may be realized by such Collector by any process provided by any law for the time being in force for the realization of public demands; and shall be deemed to be a public demand under such law: Provided that the <sup>1</sup> [District Road Fund] shall indemnify the Collector of the district for all expenses incurred, and for all costs and damages for which such Collector may become liable (whether in connection with suits before the Civil Courts or otherwise) in respect of any proceedings for the recovery of any such dues as aforesaid.

1. Words subs. by Ben. Act 3 of 1885.

**99. Collectors may recover dues out of rent :-**

Instead of proceeding as provided by the last preceding section for the recovery of any sum due under this Act, or if after so proceeding the Collector shall have failed to find property belonging to the person from whom any such sum is due, by the sale of which such sum may be fully recovered, the Collector may, if he see fit, after recording his opinion to that effect, cause a notification in form in Schedule F contained to be issued for the estate or tenure in respect of which any such amount is due. Such notification shall be published by beat of drum in every village containing any land to which such notification relates, and a copy thereof shall be posted in a conspicuous place in every such village and at the malcutcherry of the estate or tenure to which such notification relates, if such cutcherry be found. Every payment of rent, save and except to the Collector or some person by him thereunto appointed, made after such publication, until further order from the Collector, shall be null and void; and the Collector may recover by any process of law for the time being in force, by which he might recover rent due to the Government from a tenant in an estate which is managed directly by the Collector, the rent then or thereafter to become due from any occupier, tenure-holder, under-tenant or raiyat on the estate or tenure in respect of which the notification has been issued, until the amount due to the Collector together with all costs shall be satisfied, whereupon the said notifications shall be revoked. The receipt of the Collector in respect of all sums paid to him as rent or so recovered shall be, to the extent of such sums, a valid discharge in respect of rent due by the occupier, tenure-holder, under-tenant or raiyat to whom such receipt is given. In case the Collector shall see fit so to proceed, the claim for arrears of road cess and public works cess due from any estate or tenure in respect of which a notification has been issued as above provided shall have priority over any other demand or claim or lien existing thereupon other than the demand of Government revenue.

**100. Board of Revenue may invest any person with Collectors powers :-**

The <sup>1</sup> [Board of Revenue] may at any time invest any person with the powers of a Collector under this Part to be exercised by such person under the control or supervision of the Collector, or independently of such control and supervision, as the [Board of

Revenue] shall direct.

1. Words subs. by Ben. Act 5 of 1915.

**101. Collector may delegate powers :-**

The Collector may <sup>1</sup> \* \* delegate all or any of his powers and functions under this Part to be exercised, under the control and supervision of the Collector, by any Deputy Collector, Assistant Collector, Sub-Deputy Collector or other officer of like rank: Provided that every order passed by such Deputy Collector, Assistant Collector, Sub-Deputy Collector or other officer shall be appealable to the Collector within fifteen days of such order being passed.

1. Words omitted by Ben. Act 5 of 1915.

**102. Appeals against valuation :-**

Every person who shall deem himself to be aggrieved by any valuation made by a Collector under the provisions of section 75 or 76 may, within one month after the issue of the notice mentioned in section 78, and <sup>1</sup> \*\*\* every person who shall deem himself to be aggrieved by any valuation made by the Collector under the provisions of any other section of this Part, may, within one month after the posting up of a copy of the valuation- roll as mentioned in section 35, prefer his objection to the Collector; and, if such objections, or any of them, are disallowed may, within one month of such disallowance, appeal to the Commissioner against such valuation, and the decision of the Commissioner shall be final.

1. Words repealed by Ben. Act 1 of 1939.

**103. Orders for levy of fine appealable :-**

Every order for the levy of a fine or of expenses passed by a Collector under this Act shall be appealable to the Commissioner within one month from the service of the first process for the levy of such fine or expenses. Except as otherwise provided in section 18, pending such appeal, and until the order of the Commissioner, which shall be final, all process for such levy shall be discontinued.

**104. Orders appealable to Commissioner :-**

Every order passed by the Collector under sections 19, 20, 26, <sup>1</sup> 46(2), 50, 51, 53, 85, 98, or 99 shall be appealable to the Commissioner within one month from the date of such order.

1. Figure ins. for W. Bengal by Ben. Act 4 of 1910 and for E. Bengal by Ben. Act 1 of 1939.

**105. Revision of orders by Collector, and control and supervision by Commissioner and Board :-**

**106. Board may make rules :-**

The Board of Revenue may, <sup>1</sup> [subject to the provisions of section 107-R,] from time to time make, and, when made, from time to time alter, add to or cancel, any rules

(a) prescribing forms for the notices, returns and valuation-rolls required by this Part to be issued or made;

(b) prescribing the amounts which shall be levied in respect of the issue of each notice and process under this Part, and regulating the recovery thereof under section 97;

(c) prescribing the amount of copying fee to be levied in respect of supplying extracts and copies of returns and valuation-rolls as provided in section 34;

(d) apportioning the amount of the cesses for the payment of which the respective holders of the several shares of an estate in respect of which separate accounts are kept shall be primarily liable under section 44;

(e) regulating the opening, keeping and closing of separate accounts in respect of amounts of cess payable by recorded shareholders in revenue-free estates as provided in section 46;

(f) regulating the proceedings of the Collectors under Chapter V; and otherwise providing for the proper execution of this Act in respect of valuations of the assessment and of the levy of the cesses and other sums due under the same.

1. Words, figures and letter ins. by Ben. Act 11 of 1934.

**107. All rights in immovable property saved unless affected by this Act :-**

Nothing in this Part contained, and nothing done in accordance with this Act, shall be deemed to affect the rights of any person in respect of any immovable property or of any interest therein except as otherwise expressly provided in this Act.

**CHAPTER 7A**

Valuation and Revaluation of Lands in a District or Part of a District in respect of which a Record-of-rights has been finally published and Payment of Cess on such Lands

**107A. Application of chapter :-**

(1) Notwithstanding anything contained in this Act

(a) the valuation or revaluation of lands in a district included in Schedule G or in a part of such district shall be made in accordance with the provisions of this chapter: <sup>2</sup>

Provided that if at any stage of the operations regarding valuation or revaluation of lands under this chapter, the <sup>3</sup>[State] Government is of opinion that the valuation or revaluation of such lands should be made in accordance with the provisions laid down in Chapters II, III, and IV, the <sup>3</sup>[State] Government shall, by notification in the Official Gazette, make an order to that effect, and on the publication of such notification,

(i) the valuation or revaluation of lands in respect of which such notification is in force shall be made in accordance with the provisions of Chapters II, and IV;

(ii) the valuation or revaluation of such lands made under this chapter shall have no effect; and

(iii) the holders of estates or tenures or the owners, holders or occupiers of rent-free interest who have filed returns under section 107J shall not be again called upon to file returns under Chapter II or Chapter IV for the purpose of valuation or revaluation under Chapters II, III, and IV, and the returns filed under section 107J shall be treated as returns filed under Chapter II or Chapter IV, as the case may be;

(b) every holder of an estate, other than <sup>5</sup>[the Government], and every holder of a tenure or other interest in land in a district or part of a district in respect of which such valuation or revaluation shall have been made shall be bound to pay cess in accordance with the provisions of this chapter from the date fixed by the Board of Revenue as the date from which such valuation or revaluation shall take effect

Provided that no such valuation or revaluation shall take effect before the expiration of the period of five years from the date from which the last preceding valuation, if any, took effect:

Provided further that where a notification has been issued under

the proviso to clause (a) for the valuation or revaluation of any lands in accordance with the provisions of Chapters II, III, and IV, the cess in respect of such lands shall, when such valuation or revaluation shall have been made, be paid in accordance with the provisions of Chapter III or Chapter IV, as the case may be, from the date fixed by the Board of Revenue as the date from which the valuation or revaluation so made shall take effect.

(2) The <sup>4</sup>[State Government] may, from time to time, by notification in the <sup>8</sup>[Official Gazette] include in Schedule G any district in respect of the <sup>9</sup>[or may, by like notification with effect from such date as may be specified in the notification, exclude from the said schedule any district for the time being included therein]

<sup>10</sup> (3) The reference in sub-section (1) to Schedule G shall be construed as a reference to such schedule as for the time being amended under subsection (2)

1. This chapter and sec. 107A ins. by Ben. Act 11 of 1934.

2. Proviso ins. by W.B. Act 12 of 1947.

3. Word subs. by the Adaptation of Laws Order. 1937.

5. Words subs. by the Government of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order, 1950, respectively.

6. Proviso ins. by W.B. Act 12 of 1947.

8. Words subs. by the Government of India (Adaptation of Indian Laws) Order, 1937.

9. Words inst. by W.B. Act 12 of 1947.

10. Sub-sec. (3) inst. by W.B. Act 12 of 1947.

### **107B. Definitions :-**

<sup>1</sup>In this chapter, unless there is anything repugnant in the subject or context,

(1) "acreage rate" means the rate per acre of land determined in accordance with the provisions of this chapter;

(2) "annual value of any land" means the sum of money calculated by multiplying the area of the land by the acreage rate applicable to such land;

(3) "cess" means the road cess and the public works cess;

(4) "cess-free land" means all land in respect of which, in accordance with the provisions of section 107-C, no cess shall be payable;

(5) "cess-paying land" means all land other than cess-free land;

(6) "class of land" means a class of land according to the classification adopted in the last finally published record-of-rights relating to the district or part of a district in which the land is situated;

(7)

(i) except as provided in sub-clause (ii), "Collector" means, in the case of lands which have been or are about to be valued or revalued under this chapter, the officer in charge of the revenue administration of the district in which such lands are situated or any officer appointed by the <sup>2</sup>[State Government] to exercise any of the functions of a Collector under this chapter in respect of such lands;

(ii) in clause (8) in sub-section (1), of section 107-M and in section 170-O "Collector" means, in the case of a revenue-paying estate, the Collector or similar officer on whose revenue-roll the estate is borne, and, in the case of a revenue-free estate, the Collector or other similar officer on whose general register of revenue-free lands the estate is borne;

(8) "estate" means

(1) land included under one entry in the general registers of revenue-paying lands and of revenue-free lands prepared and main

(2) any land acquired under any rules issued by, or under authority of, Government for the sale, grant, lease or clearance of waste-lands;

(9) "farmer of an estate" means the farmer of an estate let to him in farm by <sup>3</sup>[any Government];

(10) "holder of an estate" includes <sup>4</sup>[the Government] in the case of estates which are

(a) the property of <sup>4</sup>[the Government], or

(b) the property of private persons and are under the direct management of <sup>3</sup>[any Government] or have been let in farm by

<sup>3</sup> [any Government];

(11) "prescribed" means prescribed by rules made under this



chapter;

(12) "rent" means whatever is lawfully payable or deliverable in money or kind by a tenant to his landlord on account of the use or occupation of the land held by the tenant;

Explanation.- Where rent is payable in kind the money value thereof shall, for the purposes of this chapter, be taken to be the value of the landlord's share of the crop calculated on an average of the five years next preceding any valuation or revaluation under this chapter;

(13) "tenure", "raiyat" and "under-raiyat" have the same meanings as in the Bengal Tenancy Act, 1885.

1. Sec.107B inst. by Ben. Act 11 of 1934.
2. Words subst. by the Government of India (Adaptation of Indian Laws)
3. Words subs, by the Government of India (Adaptation of Indian Laws) Order,1937.
4. Words subs, by the Government of India (Adaptation of Indian Laws) Order.1937 and the Adaptation of Laws Order, 1950.

**107C. Cess paying and cess-free lands :-**

**1**

(1) Except as otherwise provided in this section all lands shall be cess paying.

(2) The following lands shall be cess-free, namely:

(a) in areas other than those referred to in clause (b)

(i) all lands recorded in the last finally published record-of-rights as belonging to a class included in the statement of classes of cess-free lands published under sub-section (3) of section 107-G;

(ii) all lands included in a list of cess-free lands published under sub-section (2) of section 107-I;

(b) in arrears which have been omitted from a record-of-rights, or in which the Collector considers that the classification contained in the last finally published record-of-rights should not be followed owing to extensive changes in the land which have occurred since its preparation

(i) all lands which consist of jungle, road, path, river, khal, graveyard, cremation-ground, mosque, temple or any other place of public worship, unculturable waste, unculturable marsh and

unculturable bil so long as they continue to be such;

(ii) all lands exempted for the time being from liability to cess by an order of the Collector.

(3) Nothing in this chapter shall apply to the following classes of immovable properties, namely:

(i) railways and tramways,

(ii) mines and quarries, and

(iii) forests:

Provided that the Collector may, at his discretion, decide what land shall be assessable under Chapter V as forests.

1. Sec.107C ins. by Ben. Act 11 of 1934.

**107D. Determination of acreage rate :-**

**1**

(1) On receipt of an order under section 12 or section 15 for the valuation or revaluation of a district or part of a district the Collector may divide the district or part thereof into as many suitable units as he considers necessary and shall determine in accordance with such rules as the <sup>1</sup> [State Government] may make a fair and uniform acreage rate for the district or part thereof, as the case may be, or, if the district or part thereof has been divided into units, a fair and uniform acreage rate for each unit.

(2) Such rate shall not exceed

(a) one-fifth of the value of the gross produce per acre of all cess-paying lands in the area for which the rate is being determined estimated on the assumption that the land produces a normal crop of paddy: Provided that in respect of any district or part of a district the [State Government] may, at its discretion, direct that the estimate shall be made without such assumption: In making the estimate the following matters shall be taken into account, namely:

(i) the general productivity of agricultural lands in the area for which the rate is being determined;

(ii) the prices prevailing during the preceding five years of agricultural produce generally in the district;

(iii) the total estimated value of all agricultural produce of the

district for the preceding five years;

(b) a rate likely to increase the total cess demand in the district by more than twenty per centum.

(3) In determining such rate the Collector shall take amongst others the following matters into consideration:

(i) the maximum rate according to his estimate under sub-section (2);

(ii) the amount of the existing demand for road cess and public works cess in the district and the incidence thereof;

(iii) the rate of rent generally payable by raiyats or under-raiyats of all grades.

(4) Notwithstanding anything contained in sub-sections (1), (2) and (3), in the case of lands acquired under any rule issued by, or under the authority of, Government for the sale, lease, grant or clearance of waste lands or held directly from Government, and used for the cultivation of tea, coffee or cinchona, the acreage rates shall be twenty rupees per acre.

1. Sec. 107D ins. by Ben. Act 11 of 1934.

**107E. Determination of cess-free and cess-paying lands :-**

**1**

(1) The Collector shall, except in the case of an area referred to in clause (b) of sub-section (2) of section 107C, in accordance with such rules as the <sup>2</sup> [State Government] may make in this behalf

(a) prepare a statement of the classes of lands in the district or part of a district which shall be cess-free and shall include therein any class of lands consisting entirely of jungle, road, path, river, khal, graveyard or cremation-ground, mosque, temple or any other place of public worship, and may include therein any other class of land if he considers it to consist entirely of unculturable waste, and

(b) prepare, in such form as may be prescribed, a list of lands in any village, group of villages or local area, other than lands belonging to any class specified in the statement prepared under clause (a), which shall be cess-free

Provided that he shall not include any land in the list except on the ground that it is unculturable waste.

(2) In the case of an area referred to in clause (b) of sub-section (2) of section 107C, the Collector shall, after considering the returns, if any, submitted by the holder of the estate or rent-free interest in which any part of such area is included, summarily determine the total area and the annual value of the cess-paying lands in such area which are included in any estate or rent-free interest, and shall prepare the valuation-roll for such estate or rent-free interest accordingly.

1. Words subs, by the Government of India (Adaptation of Indian Laws) Order.1937 and the Adaptation of Laws Order, 1950.

2. Sec.107E ins. by Ben. Act 11 of 1934.

**107F. Preliminary publication of division of district into units, acreage rate and classes of cess-free lands :-**

**1**

(1) The Collector shall publish a statement specifying

(a) the units, if any, into which he proposes to divide the district or part thereof;

(b) the acreage rate determined by him for the district or part thereof or for each unit;

(c) the classes of land which shall be cess-free;

**2** [State Government] may make.

(2) No such objection shall be considered except in regard to the units into which it is proposed to divide the district or part thereof, the acreage rate which has been determined, and the classes of land which shall be cess- free.

1. Secs.107F and 107G ins. by Ben. Act 11 of 1934.

2. Words subs, by the Government-of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order, 1950, respectively.

**107G. Appeal to and revision by a revenue authority and final publication of division of district, acreage rate and classes of cess free lands :-**

(1)An appeal from any order of the Collector disposing of an objection under section 107F shall, if presented within thirty days from the date of the Order, lie to the revenue authority appointed by the <sup>1</sup>[State Government] in this behalf whose decision thereon shall, subject to the provisions of sub-section (2), be final.

(2) The <sup>1</sup>[State Government] and, subject to the control of the <sup>1</sup>[State Government], the Board of Revenue may revise any estimate made under sub-section (2) of section 107D by any subordinate authority and any decision by any such authority relating to the division of a district or part thereof into units or to any acreage rate or to the classes of land which shall be cess-free.

(3) When the appeals, if any, under sub-section (1) have been disposed of, the Collector shall submit all his proceedings through the Commissioner of the Division and the Board of Revenue to the <sup>1</sup>[State Government], and the <sup>5</sup>[State Government], after making such modifications, if any, as it may think fit, shall finally publish in the <sup>2</sup>[Official Gazette] a statement showing

(a) the units, if any, into which the district or part of a district will be divided,

(b) the classes of land which shall be cess-free, and

(c) the acreage rate or rates, and the publication in the <sup>2</sup>[Official Gazette] shall be conclusive evidence that these have been duly determined under this chapter. The <sup>8</sup> [State Government ] shall forward a copy of the statement to the Collector for publication in the prescribed manner.

1. Words subs, by the Government-of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order, 1950, respectively.

5. Words subs, by the Government of India (Adaptation of Indian Laws) Order, 1937.

8. Words subs, by the Government of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order, 1950, respectively.

#### **107H. Rates at which cess to be levied :-**

**1**

(1) Notwithstanding anything contained in section 46 of the Bengal Local Self-Government Act of [State Government] may, after considering the views of the District Board, determine for any district or part of a district the rates at which the road cess and the public works cess, respectively, shall be levied for each year on each rupee .of the annual value of cess-paying land, and may from time to time vary such rates after considering the views of the District Board

Provided that the rate at which each such cess shall be levied for any one year shall not exceed the rate of one-quarter anna on each rupee of such annual value.

(2) The rates so determined shall be published in the [Official Gazette] and in the prescribed manner

Provided that such publication shall not be necessary unless a change has been made in the rates since they were last published in the [Official Gazette]

1. Secs. 107H and 107-I ins. by Ben. Act 11 of 1934.

**107I. Preparation and publication of valuation-rolls, statements, and lists of lands. :-**

(1) The Collector shall prepare and publish in such form and in such manner as may be prescribed

(a) a valuation-roll in respect of every estate showing in addition to any other particulars, the total area and the total annual value respectively of the rent-paying and rent-free lands in the area under valuation other than cess-free lands comprised in the estate, and the land-revenue, if any, payable for the estate or portion of the estate under valuation;

(b) a valuation-roll of every rent-free interest showing in addition to any other particulars the annual value of the cess-paying lands in such interest, and whether the cess is payable to the Collector direct or to the holder of an estate or tenure other than the Collector. In the latter case, the name, number or other description of the estate or tenure within which the land is included shall be stated;

(c) statements of the annual value of lands comprised in all other interests. The particulars contained in such statements shall be presumed to be correct until the contrary is proved. Notwithstanding anything contained in any such statement the holder of an estate or tenure shall be entitled to recover from his tenant, and such tenant shall be bound to pay, the cess due on account of the land held or occupied by him according to the provisions of this chapter.

(2) The Collector shall also publish in the prescribed manner the lists of cess-free lands prepared under clause (b) of sub-section (1) of section 107E.

**107J. Power of Collector to call for returns from owners or holders of estates or other interests :-**

**1**

(1) The Collector, may where he thinks fit and in particular in respect of rent-free interests, or where there

(2) Where the Collector requires such returns he shall publish a proclamation in the prescribed manner calling upon the holders of estates or tenures or the owners, holders or occupiers of rent-free interests concerned to file returns in the prescribed form and every such holder or occupier shall file, with full and correct information, the returns so called for within the time specified in the proclamation. Each such return shall show, in addition to any other particulars, the total area, the area, if any, within the limits of a municipality and the particulars of any change in the area of such estate, tenure or interests, a specification of the lands added thereto or excluded therefrom, with an explanation of the reasons for such change, addition or exclusion, and the revenue or rent payable in respect of the estate, tenure or interest.

(3) If any holder of an estate or tenure or the owner, holder or occupier of rent-free interest fails to comply with the requisition for returns, he shall be subject to the provisions of section 18, 19 and 20.

1. Sec. 107J ins. by Ben. Act 11 of 1934.

**107K. Copies of or extracts from valuation-roll to be available on payment of fees :-**

**1** Copies of, or extracts from, the valuation-roll prepared under section 107-I shall be available to holders of estates of tenures or other interests or the owners, holders or occupiers of rent-free interests in such manner and on payment of such fees as may be prescribed.

1. Secs. 107K to 107N ins. by Ben. Act 11 of 1934.

**107L. Correction of mistakes in valuation-roll :-**

**1** The Collector may, at any time, correct any bona fide clerical mistake in or omission from the valuation-roll.

1. Secs. 107K to 107N ins. by Ben. Act 11 of 1934.

**107M. Payment of cess :-**

**1**

(1) Every holder of an estate, other than <sup>2</sup> [the Government] and every farmer of an estate, shall yearly pay to the Collector the total cess calculated on the annual value of the cess-paying lands included in such estate, at the rate or rates which may have been determined for the road cess and public works cess respectively for the year as in this chapter provided, less a deduction to be calculated at the said rates for every rupee of the land-revenue, if any, entered in the valuation- roll of such estate as payable in respect thereof, and less also a deduction at half the said rates on the annual value of all cess-paying rent-free lands comprised within the estate.

(2) Every holder, other than a rent-free holder, of a tenure or other subordinate interest comprising any cess-paying lands shall yearly pay to the person to whom his rent is payable the total cess calculated on the annual value of the cess-paying lands comprised in his tenure or interest, at

Provided that where the rent payable is equal to or greater than the annual value, no cess shall be payable by him.

Explanation. In this sub-section the expression "rent payable" means, where the rent is payable in kind, the money value thereof.

(3) Every owner and holder of any rent-free land, and every person in receipt of the rents and profits or in possession or enjoyment of such land, shall be bound to pay year by year to the holder of the estate or tenure in which such land is included under the proviso to section 50, or to the Collector if the Collector has ordered that the cess shall be paid to him direct, the total cess calculated on the annual value of such land, not being cess-free land, at the full rate or rates which may have been determined for the road and public works cess as in this chapter provided.

1. Secs. 107K to 107N ins. by Ben. Act 11 of 1934.

2. Words subs. by the Government of India (Adaptation of India Laws) Order.

**107N. Power to Collector to grant abatement or remission of cess :-**

<sup>1</sup>Notwithstanding anything contained in this Act, the Collector may, in accordance with rules to be made by the <sup>2</sup> [State Government], at any time grant abatement or remission of any cess payable under this chapter



1. Sees. 107-O to 107Q ins. by W.B. Act 11 of 1934.
2. Words subs, by the Government of India (Adaptation of Indian Laws] Or

**107O. Power to serve notice showing cess and fixing the date from which cess shall take effect. :-**

**1**

(1) The Collector shall cause to be served on every holder of an estate other than <sup>2</sup>[the Government.] and on every farmer of an estate, in the prescribed manner, a notice showing the amount of cess payable under sub-section (1) of section 107M in respect of his estate and specifying the date from which such cess will take effect.

(2) Notwithstanding anything contained in section 107M, the amount shown in the said notice shall be recoverable from the said holder or farmer other than <sup>2</sup> [the Government].

(3) The Collector may at any time serve a revised notice on the said holder or farmer if he finds that the amount of cess payable under section 107M has not been correctly calculated or has not been correctly shown in the notice.

(4) In case of any change in the rate of cess it shall not be necessary to serve a revised notice but the amount of cess payable shall be proportionate to the changed, rate.

(5) The notice issued under sub-section (1) shall include the cess payable in respect of the estate in all districts including cess, if any, payable under sub-section (1) of section 41 or section 51 on account of lands in respect of which a valuation or revaluation made under chapter II is still in force, and no separate notice under section 40 shall be necessary:

1. Sees. 107-O to 107Q ins. by W.B. Act 11 of 1934.
2. Words subs, by the Government of India (Adaptation of Indian Laws] Or

**107P. Particulars of cess to be specified in receipt :-**

**1**

(1) Where a tenant makes payment on account of cess to his landlord the rent-receipt granted by the landlord under section 56 of the Bengal Tenancy Act, 1885, shall specify the amount of cess paid by the tenant and the total cess demand payable by him correctly calculated by the landlord.

(2) If the receipt does not contain substantially the particulars required by sub-section (1), it shall be presumed, until the contrary is shown, to be an acquittance in full of all demands of cess payable by the tenant to his landlord up to the date on which the receipt was given.

1. Secs. 107P to 107R ins. by W.B. Act 11 of 1934.

**107Q. Alteration of annual value and revision of valuation roll in certain cases :-**

**1**

(1) Notwithstanding anything contained in this Act, if at any time while any valuation or revaluation is in force it appears to the Collector that owing to alluvion or diluvion or other cause extensive changes have occurred in any land, and that in consequence thereof the annual value shown in the valuation-roll of any estate or rent-free interest should be altered, he may, after notice to the holder of such estate or rent-free interest and after making such inquiry as he considers necessary, enhance or reduce the annual value in such valuation-roll, and publish a revised valuation-roll of such estate or rent-free interest, and issue a revised notice under section 107-O, and may also, if necessary, amend any list published under section 107-I.

(2) When the Collector publishes a revised valuation-roll under sub-section (1), he may order that the revised valuation shall take effect from a date not being earlier than the beginning of the second financial year previous to the financial year in which the revised roll is published and cess shall be payable accordingly.

1. Secs. 107P to 107R ins. by W.B. Act 11 of 1934.

**107R. Rules :-**

**1**

(1) The <sup>2</sup>[State Government] may from time to time make, and when made, from time to time, alter, add to or cancel, any rule

(a) regulating the determination of the acreage rate referred to in sub-section (1) of section 107D;

(b) regulating the preparation of the statement of cess-free lands and the lists of cess-free lands referred to in sub-section (1) of section 107E and prescribing the form of such lists;

(c) prescribing the manner and period of publication of the

statement referred to in sub-section (1) of section 107F, the method of disposal of objections under the said sub-section and the manner of final publication of the statement by the Collector under subsection (3) of section 107G;

(d) prescribing the manner of publication of the rates determined under section 107H;

(e) regulating the preparation and prescribing the form and the manner of publication of valuation-rolls and statements of annual value of lands and the manner of publication of lists of cess-free lands under section 107-I;

(f) prescribing the manner of publication of the proclamation under section 107J and the forms for, and contents of, the returns required under that section;

(g) prescribing the manner of, and the amount of fees to be levied for, supplying extracts from or copies of valuation-rolls under section 107K;

(h) regulating the abatement or remission of the cess under section 107N;

(i) prescribing the manner of service of notice under section 107-O; and

(j) generally to carry out the purposes of this chapter.

(2) Such rules shall be published in the <sup>3</sup> [Official Gazette] and thereupon shall have the force of law: Provided that any rule made under clause (h) of sub-section (1) shall be subject to the condition of previous publication.

1. Secs. 107P to 107R ins. by W.B. Act 11 of 1934.

2. Words subs, by the Government of India (Adaptation of Indian Laws)

3. Words subs, by the Government of India (Adaptation of Indian Laws) Order, 1937.

### **107S. Application of certain provisions of this Act to this chapter :-**

<sup>1</sup> For the purposes of this chapter

(i) the following provisions of this Act shall not be applicable, namely: The definitions of 'annual value of any land, estate or tenure,' 'cultivating raiyat,' 'estate', 'holding', 'tenure', 'the

Collector' and 'the Collector of the district,' in section 4; sections 6, 13, 14, 16, 17, and 21 to 35 ; in section 37 the words 'from making at any time any reduction which he may think fit in the valuation of any estate or tenure; or'; sections 38 to 40A, 41 except the last paragraph as in force in Western Bengal, 51 to 56, 59 to 64, the proviso to section 64A, sections 66 to 71, 89,93 and the portion of section 102 after the word and figures 'section 35';

(ii) all the other provisions of this Act shall be applicable mutatis mutandis, so far as the same may reasonably be applied, and subject to the following particular modifications, namely:

(a) in section 42, in sub-section (1), after the words 'revenue-paying estate' and in sub-section (2) after the words 'revenue-free estate' the words 'other than Government, and every farmer of an estate' shall be deemed to be inserted;

(b) in sub-section (3) of the said section, for the words 'cultivating raiyat' and for the word 'raiya' in the two other places where it occurs the words 'holder of any other subordinate interest in land' shall be read;

(c) in section 47, after the word 'tenure' the words 'or any other subordinate interest in land' shall be deemed to be inserted; (d) in section 48, after the words 'in an estate or tenure' the words 'or any other subordinate interest in land' shall be deemed to be inserted.

1. Sec. 107S ins. by Ben. Act 11 of 1934.

## CHAPTER 8

Constitution and application of the District Road Fund

### **108. Constitution of District Road fund :-**

The District Road Fund of every district under this Act shall consist of the amount produced by the road cess, of all sums levied or recovered <sup>1</sup>\* \* in respect of the cesses under this Act <sup>2</sup>[not being fines or penalties and] <sup>3</sup>[not being interest levied in respect of public works cess,] of all sums assigned by <sup>4</sup>[any Government] thereto, whether as a contribution from the proceeds of the public works cess towards the expenses of assessing and collecting such cess jointly with the road cess or otherwise. <sup>5</sup> \* \*\*\*\*\*

1. Words "as fines penalties and otherwise" omitted by the Government of India (Adaptation of Indian Laws) Order, 1937.

2. Words ins. by the Government of India (Adaptation of Indian

Laws) Order. 1937.

3. Words ins. by Ben. Act 2 of 1881.

4. Words subs, by the Government of India (Adaptation of Indian Laws) Order, 1937.

5. Words omitted by Ben. Act 3 of 1885.

### **109. Application of District Road Fund :-**

**<sup>1</sup>**.The District Road Fund of every district shall be applicable to the following objects and in the following order: Firstly. To the payment of the cost of establishments entertained and expenses incurred by the Collector under section 91. Secondly. To the indemnification of the Collector, with the sanction of the Commissioner, for any other costs or damages which he may have incurred, or for which he may have become liable, in the course of the proceedings for the assessment and collection of the cesses under this Act. **<sup>2</sup>** And the balance, after payment of such expenses shall be credited to the Zilla Parishad Fund of the district

1. Sec. 109 subs. for the original by Ben. Act 3 of 1885.

2. Second para of clause "Secondly" subs, by W. B. Act. 35 of 1963.

#### CHAPTER 9

#### CHAPTER

#### CHAPTER 10

#### CHAPTER

#### CHAPTER 11

#### CHAPTER

#### CHAPTER 12

#### CHAPTER

### **110. . :-**

Rep. by Ben. Act 3 of 1885

### **111. . :-**

Rep. by Ben. Act 3 of 1885

### **112. . :-**

Rep. by Ben. Act 3 of 1885

### **113. . :-**

Rep. by Ben. Act 3 of 1885

### **114. . :-**

Rep. by Ben. Act 3 of 1885

### **115. . :-**

Rep. by Ben. Act 3 of 1885

**116.** . :-

Rep. by Ben. Act 3 of 1885

**117.** . :-

Rep. by Ben. Act 3 of 1885

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Rep. by Ben. Act 3 of 1885

**181.** . :-

Rep. by Ben. Act 3 of 1885

CHAPTER 13

General

**182. State Government empowered to prescribe forms and rules :-**

The <sup>1</sup>[State Government] may from time to time make, and, when made, from time to time alter, add to or cancel, any rules, not inconsistent with the provisions of this Act,

(a) to (c) ] Rep. by Ben. Act 3 of 1885);

(d) prescribing forms of accounts to be kept by the Collector under this Act;

(e) Rep. by Ben. Act 3 of 1885;

(f) fixing the dates for payment of instalments of cess under sections 42 and 57;

(g) and (h) Rep. by Ben. Act 3 of 1885;

(i) and generally for the purposes of this Act.

Such rules shall be published in the <sup>2</sup> [Official Gazette] and shall thereupon have the force of law.

1. Words subs, by the Government of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order. 1950, respectively.

2. Words subs, by the Government of India (Adaptation of Indian Laws) Order. 1937.

SCHEDULE A

Form of return prescribed by section 14

Amount of Government revenue or rent payable by the estate or tenure:
<b>SCHEDULE A</b>
<b>Form of return prescribed by section 14.</b>
<b>Amount of Government revenue or rent payable by the estate or tenure:</b>
<b>Rs. a. p.</b>
<b>PART I.</b>
District
Name by which the estate or tenure is known, and the number which it bears on the Collector's general register, or on any other register kept by the Collector
Details of lands in the actual occupation or cultivation of the person

submitting the return:

1	2	3	4	5
Pargana.	Name of village and thana in which situated.	Area of land [if known]	Deduct area of land situate within any municipality	Annual value of remaining land.

**SCHEDULE B**

Form of Notice upon a Revenue-paying Estate or Rent-paying Tenure under section 17.

**SCHEDULE B**

FORM NO. I.

Form of Notice upon a Revenue-paying Estate or Rent-paying  
*Tenure under section 17.*

District of

Notice under section 17 of the Cess Act, 1880.

COLLECTOR'S OFFICE	(Sd) A.B.,
Dated	Collector.

**SCHEDULE C**

Form of Notice under section 33

**SCHEDULE C.**

*Form of Notice under section 33.*

District of

Notice under section 33 of the Cess Act, 1880.

The owner, the chief agent, manager or occupier of (give the name by which the concern or property is known) situated in the district of

is hereby required to lodge in the office of the Collector of.....of .....a return in the form hereunto annexed, showing the amount of land under cultivations the date of this return in the said

Such return must be signed by him and be lodged within the space of two months from the service of this notice (unless within the said two months such owner, chief agent, manager or occupier obtain from the Collector an extension of the said space of months), under penalty of a daily fine of fifty rupees for every day after the expiry of such period of extension thereof until such return shall be presented.

*Form of return to the Notice.*

District

Details of lands acquired under any rules for the sale, lease, grant or clearance of waste lands or held direct from

Government and used for the cultivation of tea, coffee or cinchona, under the control of the person submitting the return:

1	2	3	4	5	6	7
Dis- tricts.	Parganas and thanas.	Disignation by which the estate, lot or grant is known, and the number it bears on any register kept by the Collector.	Name of owner, agent, manager or occupier.	Entire area of land.	Area or areas of lands under cultivation	Arrange value at Rs 10 per acre of land in [col- umn 6).
in which the land's lie						

SCHEDULE D

Form of notice under section 52

**SCHEDULE D.**

*Form of notice under section 52.*

Notice to holders of lands held rent-free under section 52 of the

Cess Act, 1880.

SCHEDULE E

Form of notice under section 72 in respect of all

**SCHEDULE E.**

FORM No. I

*Form of notice under section 72 in respect of all  
mines and quarries*

District.....	Year.....
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**SCHEDULE F**

Form of Notice under section 99.

<p><b>SCHEDULE F.</b></p> <p><b><i>Form of Notice under section 99.</i></b></p>	
	(Sd) A.B.,
	Collector.

**SCHEDULE G**

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<p><b>SCHEDULE G</b></p>

