

(2) The registers shall be written in the prescribed form and language, and shall be prepared, arranged, kept and maintained in the prescribed manner.

49. Until registers are prepared for any tract under section 48, the Chief Commissioner may direct that any registers kept by or under the control of the Deputy Commissioner at the commencement of this Regulation shall be deemed to be registers prepared under that section. Existing registers.

Part B.—Registration.

50. After the commencement of this Regulation—

- (a) every proprietor or landholder succeeding to any estate, or share in an estate, whether by transfer or inheritance, and obtaining possession of the same ; Liability of persons succeeding to estates to give information of succession.
- (b) every joint proprietor or joint landholder of any estate assuming charge of the estate, or of any share therein on behalf of the other proprietors or landholders thereof ;
- (c) every person assuming charge of any estate of a proprietor or landholder, or of any share therein as manager ; and
- (d) every mortgagee obtaining possession of any estate of a proprietor or landholder, or of any share therein ;

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

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

Procedure
on applica-
tion for re-
gistration.

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

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

Enquiry
by Deputy
Commis-
sioner.

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

Power to
Deputy
Commis-
sioner to
direct regis-
tration on
informa-
tion
received
otherwise
than
through
applica-
tion.

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

Provided that—

- (a) the information has been verified by local enquiry made by an officer not below the rank of an Assistant Settlement-officer, or
- (b) notice has been published and an inquiry has been held in the manner prescribed by sections 52 and 53 as if an application for registration had been received from the person to whom the information relates.

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

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

Power to put one party in possession in cases of dispute.

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

Registration of tenures in permanently-settled estates.

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

Procedure on application for registration under section 55.

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

(3) If within the time specified an objection is made by any recorded proprietor, or by any person interested not being a proprietor, the Deputy Commissioner shall examine the person so objecting and, if it appears that he has probable ground of objection, shall suspend proceedings and refer the parties to the Civil Court.

(4) Provided that no tenure shall be registered under this section unless the Deputy Commissioner is satisfied that it has been created in good faith and

at a rent not less than the full amount of the the revenue fairly payable in respect of the lands comprised in it.

Registration fee.

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

Penalty for non-registration.

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

(2) A person required by section 50 to apply for registration shall not acquire, or be deemed to have acquired, as against the Government, any interest in land as proprietor, landholder, manager or mortgagee, or be entitled to prefer any claim against the Government in respect of such interest, as long as he omits to apply for registration, but shall be subject to all the liabilities of a proprietor, landholder, manager or mortgagee so far as regards the payment of revenue and all other obligations to the Government.

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

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

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

Part C.—Miscellaneous.

Public entitled to inspect and to apply for extracts from registers.

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

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

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

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

Saving clause.

- (a) preclude any person from bringing a suit in the Civil Court for possession of, or for declaration of his right to, any immovable property to which he may deem himself entitled; or
- (b) render the entry of any land in any register under this Chapter as revenue-free an admission on the part of Government of the right of the person in whose name the land may be entered, or an admission of the validity of the title under which the said land is held revenue-free.

CHAPTER V.

ARREARS AND MODE OF RECOVERING THEM.

Liability for Revenue and default.

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

Liability for land revenue, etc.

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

Liability for house-tax of families of cultivators.

Procedure when co-proprietor of permanently-settled estate desires to pay separately.

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

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

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

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

(5) The opening of separate accounts under this section shall not affect the joint and several liability imposed by section 63 except in so far as by this Regulation expressly provided.

Revenue when due and where and to whom payable.

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

"Arrear" and "defaulter" defined.

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

Notice of demand.

68.* (1) When an arrear has accrued, an additional charge by way of penalty not exceeding one rupee may be levied. Penalty leviable on arrears and notice of demand.

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

Provided that, in such classes of cases, not being cases in which an arrear has accrued in respect of a permanently-settled estate, as the Chief Commissioner may direct in this behalf, the prescribed officer shall not employ any such process for enforcing payment as aforesaid, until he has issued a notice of demand and the defaulter has failed to pay the arrear within the time specified in such notice.

Sale of Moveables.

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

(2) Every such attachment and sale shall be conducted according to the law for the time being in force for the attachment and sale of moveable property under a decree of a Civil Court.

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

Attachment of defaulting Estate.

69A.† (1) When an arrear has accrued in respect to a temporarily-settled estate, the Deputy Commissioner, with the previous sanction of the Commissioner, may attach the estate, and may take it under his own management or may let it in farm. Attachment of estate, application of profits and duration of attachment.

* New section substituted by Regulation II of 1905.

† New section inserted by Regulation II of 1905.

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

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

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

Provided that, without the sanction of the Chief Commissioner, no attachment shall continue for a longer period than five years.

Sale of defaulting Estate.

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

Provided that—

- (1)*^(a) except when the Chief Commissioner by general order applicable to any local area or any class of cases or by special order otherwise directs, ^(a) an estate which is not permanently-settled shall not be sold unless the Deputy Commissioner is of opinion that the process provided for in section 69 is not sufficient for the recovery of the arrear :
- (2) if the arrear has accrued on a separate account opened under section 65, only the shares or lands comprised in that account shall in the first place be put up to sale ; and if the highest bid does not cover the arrear, the Deputy Commissioner shall stop the sale and direct that the entire estate shall be put up for sale at a future date, to be specified by him ; and the entire estates shall be put up accordingly and sold ;

* (a)—(a) Inserted by Regulation II of 1889.

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

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

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

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

Estate to be sold free of Incumbrances.

Provided that—

first, nothing in this section shall apply—

(a) in a permanently-settled estate—

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

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

(b) in any estate to tenures created *bona fide* and a rent no less than the full amount of the revenue fairly payable in respect of the land :

secondly, nothing in this section shall entitle a purchaser to eject any tenant having a right of occupancy under the Rent Law for the time being in force, or to enhance the rent of any such tenant otherwise than in the manner prescribed by that law :

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

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

Notice of sale.

* New section substituted by Regulation II of 1889.

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

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

(4) When the arrear has accrued on an estate, not being a permanently-settled estate in the district of Sylhet, a copy of the statement prepared under sub-section (1) shall be served on the defaulter, or, if he cannot be found, posted on the estate in manner prescribed.

(5) When the arrear has accrued on a permanently-settled estate in the district of Sylhet, a copy of the statement shall be posted on or in the vicinity of the estate in manner prescribed and, if any proprietor of the estate has registered his name and address in manner prescribed, a copy of the notice shall be despatched to him by post in a registered cover to that address.

(6) In making rules prescribing the manner of registering names and addresses for the purposes of sub-section (5), the Chief Commissioner may impose a fee for such registration and may fix a period after which such registration will, unless renewed, become void.

Proclamation to tenants of defaulter.

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

Sale by whom and when to be made.

74. (1) Every sale under this Chapter shall be made either by the Deputy Commissioner in person, or by an officer specially empowered by the Chief Commissioner in this behalf.

(2) No such sale shall take place on a Sunday or other authorized holiday, or until after the expiration of at least thirty days from the date on which the* list of estates* has been published under section 72.

* * The words "list of estates" substituted for the words "proclamation of sale" by section 5 of Regulation II of 1889.