

scale of 16 inches to the mile or on such other scale as the Local Government may for special reasons direct in any case or class of cases.

Boundary-  
marks.

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

Call for  
amended  
application.

11. If, on the completion of a survey, it is found that the land applied for exceeds the maximum area allowed to be taken up under this section, or if at any time before sale it is found that the land applied for does not fulfil the requirements of this section, the Deputy Commissioner may call for an amended application; and in the event of an amended application not being filed within thirty days of the Deputy Commissioner's order, the original application may be rejected, and the cost of survey, demarcation, and advertisement deposited by the applicant shall be returned to him, less the cost actually incurred: provided that in any such case it shall be in the discretion of the Deputy Commissioner to extend the period within which an amended application may be received.

By whom  
survey to  
be made.

12. The surveyor appointed to survey lands for which application is made under this section shall ordinarily not be below the rank of a Subdeputy Collector, or a person declared by Government to be an approved surveyor, or a person certified by the Director of Surveys to be qualified for the survey of such land. The Director of Surveys will take such steps as he considers necessary to check the work done and will countersign all maps of areas of 50 acres and over which have not been prepared by the ordinary district staff, before they are finally submitted to the Deputy Commissioner for his acceptance.

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

Notice of  
sale.

13. When the surveyor reports completion of his survey and the Deputy Commissioner is satisfied—

- (1) that the map is accurate,
- (2) that it is on the correct scale,

(3) that the necessary marks have been erected as required by rule 10.

(4) that the land is waste, and such as may be sold under this section,

the Deputy Commissioner and the applicant shall both sign the map, after which the Deputy Commissioner shall issue a notice of sale in which the date fixed for sale shall not be less than three months after publication of notice.

14. The notice of sale shall be published in English and vernacular at the Deputy Commissioner's offices at the court of the District Judge, and at the subdivisinal office and police station, within the limits of which the land is situate. If the area of the lot to be sold exceeds 100 acres, a copy of the notice will be sent to the Commissioner, and an advertisement of the proposed sale shall be published in the *Assam Gazette*.

Publica-  
tion  
notice  
saje. of

15. The Deputy Commissioner shall, as soon as possible after an application has been filed under this section and when a site plan of the land has been accepted by him, cause a forest officer to make an estimate of the value of the trees on the land applied for.

Valuation  
of timber.

In making the valuation, the forest officer shall have regard solely to the market value *in situ* and to the profit, if any, which the applicant is likely to derive from the timber, either by selling it or by using it for fuel or for any other purpose. If it appears, from the output of Government forests in the vicinity or from other data, that there is a ready sale in the neighbourhood for timber of the kinds found on the land, the full rates laid down in the rules relating to unclassified state forests may be assessed; but if this is not the case, there should be no hesitation in fixing lower rates. It is not the desire of Government to place restrictions on the opening out of the country by charging applicants for land more than the trees standing on it are actually worth in the open market.

The forest officer shall submit his valuation, if the royalty at full rates would not exceed Rs. 1,000, to the Deputy Commissioner, and the Deputy Commissioner, if he does not approve of it, may refer the matter to the Conservator, whose decision shall, subject to the orders of the Local Government, be final. If the royalty at full rates would exceed Rs. 1,000, the forest officer shall, before sending his valuation to the Deputy Commissioner, submit

it for confirmation to the Conservator, who may reduce it up to a maximum of 50 per cent., if he considers that it is too high, having regard to the inaccessibility of the timber to a market or to any other consideration. Should the Conservator consider that a larger reduction is called for than 50 per cent. on the forest officer's valuation, he will report the case to the Local Government for sanction to such reduction. If the applicant is dissatisfied with the valuation fixed by the Conservator, he may appeal to the Local Government.

Option of a  
paying reduced  
valuation.

15A. In any case in which a person taking up land for special cultivation under this section is unwilling to pay the full market value of the timber under the last preceding rule, he shall have the option of paying a reduced valuation representing only the profit which he is likely to derive from the use of the timber for purposes connected with the exploitation of the grant. If he exercises such option, he shall be liable to pay royalty at full rates on all timber sold or removed for sale, and on all timber removed for use unconnected with the exploitation of the grant during the period of his lease or renewed lease.

Deposit of  
cost of va-  
luation of  
timber.

16. (1) It shall be in the discretion of the Deputy Commissioner:—

- (a) to require the applicant to deposit such sum as the Deputy Commissioner may estimate to be sufficient to cover the cost of the valuation; or
- (b) to permit the valuation to proceed on the applicant agreeing in writing to pay that sum in the event of the land not being sold under his application.

(2) If a deposit is made under this rule, it shall be dealt with as follows, that is to say,—

- (a) If the land is sold to the applicant under the application, it shall be credited to him in part payment of the purchase-money.
- (b) If the land is sold to any other person under the application, it shall be refunded to the applicant.
- (c) If the land is not sold under the application, it shall be credited to Government, except when land has been withdrawn from sale in consequence of the Government desiring to retain it in their own hands, in which case the deposit shall be refunded to the applicant.

(3) If the applicant is permitted, instead of making a deposit, to give an agreement for the payment of the amount, the agreement shall, if the land is sold under the application, be void. If the land is not sold under the application, the amount shall be recovered from the applicant as if it were an arrear of land revenue :

Provided that the settlement-holder may, in case he hereafter resigns the whole or any portion of his estate, be granted a refund of the value of the timber or trees standing thereon, subject to the following provisions :—

- (i) Where the area resigned is a compact area of 250 acres or upwards, the settlement-holder shall be entitled to a refund, in respect of all unused timber, of the royalty paid at the time of settlement.
- (ii) Where the area resigned is not a compact area of 250 acres, a refund of the royalty paid at the time of settlement in respect of all unused timber may be made at the discretion of the Commissioner.
- (iii) Where a settlement-holder resigns land, on which valuable trees have been planted subsequent to settlement, a fair valuation of the trees standing on the land may be paid to the settlement-holder at the discretion of the Local Government.
- (iv) When a refund is claimed under clause (i) or (ii), it shall be for the settlement-holder to prove the amount of royalty paid at the time of settlement in respect of the area resigned. The Deputy Commissioner shall cause a forest officer to estimate what proportion the value of the standing trees bears to the value of the trees at the time of settlement and the amount of the refunds shall bear the same proportion to the amount of royalty paid at the time of settlement: provided that the Commissioner may at his discretion authorise a forest officer to assess the timber at its present market value *in situ*, in cases where it is not possible to prove the amount of royalty paid in respect of the area resigned.

1. If the applicant for land under this section is allowed to enter on it before the lease is executed, he shall be required to execute an agreement binding himself to pay the forest valuation of any timber felled, removed, or injured

Execution  
of agree-  
ment to  
pay forest  
valuation.

during his occupation, which may be finally assessed: Provided that the payment of the value of the timber on the land may be postponed for such term and under such conditions as the Local Government may decide.

Postpone-  
ment of  
sale.

18. When for any reason a sale is deferred from the date originally fixed in the notice or advertisement, intimation of the date to which it is deferred must be given by notice affixed in the Deputy Commissioner's office.

If the day to which the sale is postponed be more than fifteen days after the date originally fixed, the date to which it is deferred must be published in the manner prescribed in rule 14 for the original notice of sale. In this case the cost of publication of the advertisement (if any) will be borne by Government.

Unless the first applicant for the land desires postponement of sale, no such postponement shall be made on the ground that the timber valuation has not been completed.

Procedure  
for hearing  
claims and  
objections.

19. If after the issue of notice under rule 13, and before the day of sale, any claim is preferred or objection taken, the Deputy Commissioner shall proceed as directed in Act XXIII, 1863.

Procedure  
on day of  
sale.

20. If on the day fixed for sale only the applicant for the land appear, and no claims or objections have been preferred before the day of sale, and the Deputy Commissioner is aware of no reason why the settlement should not be made with the applicant, the Deputy Commissioner shall sell the lease of the land to him at the rate of Re. 1 per acre, excluding the value of the timber. If more than one applicant apply for the land before the issue of the notice of sale provided for in rule 14, and appear on the day of sale, the Deputy Commissioner shall put the lease up to auction between them, and sell it to the highest bidder at an upset price of Re. 1 per acre, excluding the value of the timber.

Refund of  
cost of  
survey, etc.

21. In the event of the lease being purchased by any person other than the applicant who deposited the cost of survey, preliminary demarcation, and advertisement under rule 8, the applicant shall have his deposits refunded to him, and such costs shall be paid by the actual purchaser in addition to the price paid for the lease. In the event of the land not being sold, the Deputy Commissioner may refund the applicant his deposits after deducting cost of survey demarcation, and advertisement actually incurred.

22. Immediately the lease is sold, the purchaser shall deposit the full amount of purchase-money, if he has purchased at the upset price. If the lease is purchased for a sum exceeding the upset price, the purchaser shall deposit immediately the upset price, and the balance shall be paid within two months of the date of sale.

Deposit  
after sale.

In default of immediate payment of deposit under this rule, the Deputy Commissioner may at once, or at any other time, put the lease up again and re-sell it, and the person making such default shall be liable for any deficiency in price resulting from, and expenses incurred by, the re-sale.

23. If the purchaser fail within two months from the date of sale to pay the balance of purchase-money due from him, his deposits under rules 8 and 22 shall be absolutely forfeited to Government, and the sale shall be cancelled.

Penalty on  
failure to  
pay bal-  
ance of  
purchase-  
money.

24. As soon as the purchase-money has been paid in full, the Deputy Commissioner shall report his proceedings to the Commissioner for confirmation of sale, and the Commissioner shall not confirm the sale unless he is satisfied that the rules contained in this section have been complied with.

Confirm-  
ation of  
sale.

25. As soon as the Deputy Commissioner receives the sanction of the Commissioner to the sale, and is satisfied that permanent boundary-marks have been erected at all points where required by rule 10, he shall, on behalf of the Secretary of State in Council, execute under his signature a lease in favour of the purchaser and shall call upon the purchaser to sign the same, and also to execute under his signature, duly witnessed, a counterpart of the lease, after which the lease shall be made over to the purchaser and the counterpart shall be retained by the Deputy Commissioner. The cost of stamp on the lease must be paid by the purchaser before the lease is executed. Counterparts of leases under this rule are exempt from stamp duty.

Execution  
of lease  
and coun-  
terpart of  
lease.

25A. In the case of land applied for for special cultivation which is not likely to yield a return for a long period, the Local Government may sanction the issue of a lease on favourable terms for a period not exceeding 30 years, during 10 of which, as a maximum limit, the land may be wholly exempted from payment of revenue. In such cases, the extent of the revenue concession to be made shall be stated in the notice of sale issued under rule 13.

Issue of  
lease on  
favourable  
terms.

Renewed  
lease.

25B. On the resettlement of a grant under this section the Deputy Commissioner shall, on behalf of the Secretary of State for India in Council, execute under his signature a lease in favour of the former lessee and shall call upon the lessee to sign the same and also to execute under his signature duly witnessed a counterpart of the lease, after which the lease shall be made over to the lessee and the counterpart shall be retained by the Deputy Commissioner.

Date of  
lease and  
date from  
which pe-  
riods re-  
ferred to in  
Article 2  
are to run.

26. The date of the lease shall be the date of actual execution; but in the body of the lease shall be entered, as the date from which the periods begin to run, the 1st April of the financial year in which, or next following that in which, the purchaser entered into possession according as such possession was obtained before or after the 30th September of the former year.

When pos-  
session to  
be given to  
purchaser.

27. Possession shall ordinarily be given to the purchaser as soon as the lease has been executed :

Provided that, with the special sanction of the Commissioner obtained in writing, the purchaser may take possession immediately after the day of sale.

Any applicant for land under this section who enters into possession before the day of sale and before the sale is confirmed will be liable to pay revenue from the date of such entry at the rates fixed for ordinary cultivation, and will have no claim to remain on the land, or to compensation if ousted by the purchaser, if the lease is purchased on the day of sale by any other applicant.

Rights-of-  
way be-  
tween ad-  
joining  
grants.

28. In the case of all leases of land not exceeding 600 acres granted under these rules, a right-of-way must be preserved between the new grant and the adjoining grants (if any) unless specific reasons for departing from this rule be established to the satisfaction of the Commissioner. The strips reserved for this purpose shall ordinarily be not less than 100 feet wide.

In the case of leases of land exceeding 600 acres, the Deputy Commissioner will divide the land into convenient blocks, and provide for similar rights-of-way between each. If, however, the rights-of-way are objected to by the purchaser, he will be at liberty, if he has not had notice of them prior to the sale, to throw up his lease without incurring the penalty provided in rule 23 :

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

29. *Cancelled.*

Reserva-  
tion of land  
by public  
roads.

30. A register shall be kept by the Deputy Commissioner of all applications for leases of waste lands under this section.

Register of  
applica-  
tions.

31. *Cancelled.*

Power to  
alter forms.

## SECTION II.

### ORDINARY CULTIVATION—INITIAL LEASES.

32. In this section, unless there is something repugnant in the subject or context,—

Definitions.

- (a) *Special cultivation* has the same meaning as in rule 1. "Ordinary cultivation" means "cultivation other than special cultivation."
- (b) *Waste land* means unoccupied land, the property of Government, which the Government has not disposed of by lease, grant or otherwise, and which is not included in a forest reserve or in a forest proposed to be reserved under section 5 of the Assam Forest Regulation, VII of 1891, or in lands allotted for grazing grounds under rules framed under section 13 of the Assam Land and Revenue Regulation. Waste land includes relinquished land.
- (c) *An annual lease* means a lease granted for one year only and confers no right in the soil beyond a right of user for the year for which it is given. It confers no right of transfer, or of inheritance beyond the year of issue, or of sub-letting.
- (d) *A periodic lease* means a lease which conveys the rights of a land-holder as defined in section 9 of the Assam Land and Revenue Regulation. It is subject to the due payment of land revenue and local rates, to the reservation of land for towing



paths and existing rights-of-way, to special reservations regarding user and appropriation by Government in the case of lands adjoining public roads, and to the right of Government to cancel the lease in the event of any infringement of its conditions on the part of the lessee. It is subject to the further condition that the period for which settlement is made will expire concurrently with the general settlement of the district, local area or class of estates to which it belongs. In the case of periodic leases granted to professional cultivators the right of transfer to persons of other classes is subject to special conditions.

- (e) *The terminal year* of a local area means the year up to which the rates of land revenue shall, according to the orders passed by the Local Government at the last settlement of that local area, remain in force.
- (f) *Settlement* in these rules means the leasing of land at the disposal of Government and includes the operations of survey, classification and report, preliminary to such leasing.

Powers of  
Deputy  
Commissioners.

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

Delegation  
of powers  
of Deputy  
Commissioners.

34. Subject as aforesaid, the Deputy Commissioner may by general or special order, delegate to any revenue officer within the district all or any of the powers conferred by these rules including the power to receive applications for land : provided that no officer of lower status than a Subdeputy Collector shall pass final orders to issue a periodic lease or to grant settlement of land and provided that Subdeputy Collectors may not exercise such powers if the land in question exceeds 50 bighas in area. All orders passed by a subordinate officer under the provisions of this rule shall be subject to revision by the Deputy Commissioner.

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

Settlement  
Officer.

36. Applications for leases of waste land shall ordinarily be in writing and shall be presented to the Deputy Commissioner, or to such other officer as may be empowered by the Deputy Commissioner under rule 34. They shall be made in such form as the Local Government may from time to time direct : provided that when the applicant is unable to file a written application, the officer concerned may accept a verbal application for an area not exceeding 25 bighas and shall immediately reduce it to writing.

Applica-  
tions for  
land.

37. On receipt of an application for land not exceeding 50 bighas in area, the Deputy Commissioner or other officer empowered in this behalf shall, in cadastral areas, unless he sees reason to reject the application summarily, cause the land applied for to be shown on the cadastral map. In non-cadastral areas maps shall be prepared in such cases or class of cases as the Deputy Commissioner may, by general or special order, direct. The land records staff shall at the same time report briefly whether the land is available for settlement and what rates of revenue are applicable to the land under the general or special orders of the Local Government, or, if no such orders apply to the land in question, what rate of revenue will be suitable having regard to the rates prevailing in the neighbourhood for land of the same class. Appeals against wrong measurements, classification, or assessment of land revenue will lie as provided by section 147 of the Assam Land and Revenue Regulation, provided that no appeal shall be entertained after the close of the agricultural year in which the measurement, classification, or assessment of the land was made.

Measure-  
ment and  
classifica-  
tion of  
land.

38. When no land records staff is maintained, the Deputy Commissioner will cause the survey to be done and the report required by rule 37 to be submitted by such other agency as may be available.

Survey of  
land.

39. After perusing the report and the map and making such further investigation as may seem necessary and settling any dispute that may have arisen, the the Deputy Com-

Disposal  
of applica-  
tion.