

missioner or other officer empowered in this behalf shall either grant a lease or reject the application or allow it in part.

Disposal  
of applica-  
tion.

40. Should more than one person apply for the same land, the application which has been made first shall ordinarily be granted, but the Deputy Commissioner for reasons to be recorded may grant any subsequent application and reject the first.

Procedure  
on applica-  
tions for  
land  
exceeding  
50 bighas.

41. When the area of the land applied for is more than 50 bighas, the survey, classification and assessment of the land shall be made by or under the control of an officer not lower in rank than a Subdeputy Collector who shall submit to the Deputy Commissioner a report on the proceedings. In areas which have been cadastrally surveyed the boundaries of the land applied for may be shown on the cadastral map. The report shall be in such form as the Local Government may direct, and in the case of subdivisions shall be submitted through the Subdivisional Officer.

Limit  
area. of

42. The Deputy Commissioner after perusal of the report shall pass such orders as he thinks fit: provided that in the case of settlement of land exceeding 600 acres in area he shall submit his proceedings to the Commissioner for confirmation: provided further that applications for land exceeding 3,000 acres in area shall not be entertained without the sanction of the Local Government.

Survey  
fees.

43. When the area of the land applied for exceeds 50 bighas the applicant shall deposit survey fees at the rate of 2 annas a bigha: provided that survey fees need not be levied when the land applied for is included in one or more entire cadastral *dags*.

Conversion  
of annual  
lease into  
periodic  
lease.

44. The Deputy Commissioner or other officer specially empowered in this behalf may convert an annual lease into a periodic lease in accordance with such instructions as may be issued from time to time for his guidance by the Local Government: provided that he shall first cause a report to be submitted to him in such form as the Local Government shall from time to time direct.

Settlement  
of occupied  
lands not  
included in  
any lease.

45. No person shall have any right to settlement merely because he is in occupation of land not included in any lease granted by Government either to himself or to any other person, but if the Deputy Commissioner be satisfied that the occupant has not taken possession of the land with the intent to defraud Government and that the land may with advantage be settled with the occupant, the occupant

shall be offered settlement: provided that in the Assam Valley Districts Division when lands are found occupied which are not included in any lease granted by Government either to the occupant or to any other person, and for which no application has been made under rule 36, the settlement of such lands shall ordinarily be made with the actual occupant in the manner provided in that rule. If any dispute arises as to who the actual occupant is under this rule, settlement shall be offered to the person whom the Deputy Commissioner considers to be *prima facie* best entitled to settlement.

45A. Notwithstanding anything contained in rule 45 the Local Government may direct that in any specified area leases shall be issued on written application only, and the Deputy Commissioner may thereafter prohibit any person from entering into possession of waste land within such area until a lease has been granted to him.

Prohibition to enter into land until issue of lease.

46. If the occupant to whom settlement is offered accepts it, he shall be liable for the revenue assessed on the land from the commencement of the year in which he first occupied it. If the occupant refuses the settlement offered to him, settlement may be offered to any other person from the commencement of the year succeeding that in which the occupation was discovered, and the actual occupant, notwithstanding his refusal to accept settlement, shall from the commencement of the year in which he first occupied the land, be held liable for the revenue assessed on it.

Liability to pay revenue.

47. The Deputy Commissioner may eject any person from land over which such person has not acquired the rights of a proprietor, land-holder or settlement-holder: provided that except in the case of lands to which rule 1A. of the Settlement Rules applies ejection shall be preceded by service of notice requiring the occupant to vacate the land within three months and to remove any buildings or fences which may have been raised on such land, subject to the proviso that crops actually growing on the land may be allowed to remain till they are ripe for harvest.

Ejection.

Any buildings, fences or crops which have not been removed in accordance with such notice may be sold by order of the Deputy Commissioner, provided that the sale-proceeds shall, after the deduction of any amounts due on account of process fees or cost of sale, be paid to the person who is ejected under this rule. Any person or persons required by notice in writing to vacate under the last preceding rule the land

which the person or persons occupy, shall comply with the requisition within the time prescribed in the notice, running from the date of its service. The person or persons intentionally disobeying the requisition shall be liable to a penalty which may extend to two hundred rupees, and, in case such disobedience is continued, to a further penalty which may extend to Rs. 50 for each day during which such breach continues.

Land revenue and minimum assessment.

48. The land revenue payable on account of any lease shall be determined by such general orders regarding the assessment of land revenue as may have been issued by the Local Government when confirming the last settlement of the local area or class of estates in question :

Provided that the minimum assessment of an estate shall be one rupee in the Assam Valley Districts Division and eight annas in the Surma Valley and Hill Districts Division.

Fractions in assessment.

49. In fixing the total demand on an estate fractions of an anna shall not be taken into account. Any fraction of an anna less than half an anna shall be neglected ; half an anna or more shall be counted as a whole anna. If the assessment of an estate amounts to Rs. 100 or more, any fraction of a rupee less than 8 annas shall be omitted and eight annas or more shall be treated as one rupee.

Royalty on timber.

50. The following provisions shall apply to the case of all leases for ordinary cultivation :—

- (a) No royalty shall be payable on any forest produce except timber sold or removed for sale. The timber sold or removed for sale shall be liable to the full royalty under the rules relating to unclassified state forests.
- (b) Before a lease is granted the applicant may (and shall if, for special reasons to be recorded, the Deputy Commissioner so require) clear his liability for royalty upon all timber afterwards sold or removed for sale by the pre-payment of a sum representing the full royalty on all trees which are likely to be sold or removed for sale. The sum to be so paid shall be estimated by the Deputy Commissioner either on the basis of a rate per bigha, or in such other manner as may be fair and equitable. The estimate of the Deputy Commissioner shall be final. The pre-payment shall be made either in one instalment or in such series of instalments as the Deputy Commissioner may, by general or special order, determine.

- (c) At any time during the pendency of a lease the lessee may in the manner set forth in clause (b) clear his liability in respect of all trees still standing on the land.
- (d) Notwithstanding anything contained in the preceding clauses, trees which were planted, or began to grow, on the land during the pendency of a lease shall be exempt from all payment of royalty even if sold or removed for sale. When land has been settled continuously for twenty years, all trees standing thereon shall be presumed to have been planted, or to have begun to grow, during the pendency of the lease.
- (e) If no trees other than trees exempted under clause (d) are standing upon the land of a lessee, he may at any time apply to the Deputy Commissioner for an endorsement to this effect upon his lease, and the Deputy Commissioner, after ascertaining that the allegation is correct, shall make such endorsement free of charge.
- (f) Subject to the payment of such royalty, if any, as is due under clauses (a), (b) or (c) of this rule, the holder of a periodic or annual *patta* shall be entitled to cut down or sell any tree standing on the land covered by his lease: provided that in the following mouzas of the district of Lakhimpur, namely, Laluk, Naoboicha, Telahi, Lakhimpur, Lakhimpur Khirajkhat, Kamalabari, Kodam, Bardalani, Gohaingaon, Dhakvakhana, Sissi, and Dhemaji, on the north bank of the Brahmaputra, and Larua, Khowang, Tengakhat and Tipling on the south bank of the Brahmaputra, the holder of an annual *patta* shall not be entitled to cut down or lop branches from any simul tree exceeding one foot in girth standing within  $1\frac{1}{2}$  miles of the nearest point of any river or a stream capable of floating logs at any time of the year nor shall he be required to pay any timber valuation in respect of such a tree.

51. (a) Leases for special cultivation will be issued on written application only. Royalty shall be paid on timber standing on the land whatever the area of the land may be. But a lease may be issued to the applicant before the value of the timber has been ascertained. When the Deputy

Royalty on timber in respect of leases for special cultivation.

Commissioner has adopted this procedure, he shall add the following clause to the lease:—

“ You shall pay the value of the timber on the land, as ascertained in conformity with rule 15 or 15A of section I of the Settlement Rules, within three months from the date of receiving notice of the valuation which has been assessed.”

In special cases the payment of the value of timber on the land may be postponed for such term and under such conditions as the Local Government may decide.

(b) Waste land taken up under this section for special cultivation may be disposed of by periodic lease only.

52. Notwithstanding anything contained in the foregoing

Conces-  
sional pe-  
riod and  
settlement  
of land for  
allotments  
to garden  
labour  
force.

rules—

(a) When it is necessary in order to provide that the assessment shall be made upon actual, as distinct from prospective, assets, the Deputy Commissioner may grant leases under this section with such revenue-free period, or such period on reduced revenue, or both as may be fair and equitable in the circumstances of the case :

Provided that the payment of revenue shall begin not later than the fourth year and the payment of full revenue not later than the seventh year.

(b) The Deputy Commissioner may grant leases on such terms as may be approved by the Local Government, and for a period not exceeding nine years to the proprietors of tea gardens for allotments to the garden labour force.

(c) In leases for special cultivation under clause (a), and in all leases under clause (b), there shall be a provision as in rule 51 regarding the payment of the value of timber. In leases for ordinary cultivation under clause (a), the lessee shall be subject to the provisions of rule 50.

(d) If the area applied for under clause (a) or clause (b) exceeds 600 acres, the sanction of the Commissioner shall be necessary, and if it exceeds 3,000 acres, the sanction of the Local Government shall be necessary.

Refund of  
value of  
timber on  
resignation  
of a  
grant.

53. In any case in which a settlement-holder has paid royalty for timber standing on his estate, he may, in case he hereafter resigns the whole or any portion of his estate, be granted a refund of the value of the timber of 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 refund 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.

54. Nothing in these rules shall authorise a person to obtain a lease in respect of land within 35 feet from the foot of the slope of a public road. Any person occupying or encroaching on such land shall be liable to ejection under rule 1A of the Settlement Rules: Roadside lands.

Provided that leases for building purpose for such land may be granted only by special permission of the Deputy Commissioner or Subdivisional Officer on applications made through the Executive Engineer in the case of provincial roads or through the Chairman of the Local Board in the case of Local Board roads.

The settlement of roadside lands adjoining land taken up for special cultivation, whenever it is decided to settle them, will ordinarily be offered in the first instance to the settlement-holders of such lands taken up for special cultivation.

55. If any settlement-holder wishes to relinquish the whole of his estate, or any entire fields (*dags*) within his estate, he shall tender a written petition to the Deputy Resignation.

Commissioner or other officer empowered in this behalf. The latest date for filing such petitions shall be—

(a) In the Surma Valley the 31st March ;

(b) In the Assam Valley in the case of estates in villages entered in a special list maintained by the Deputy Commissioner of villages in which mustard and *matikalai* are largely grown, the 15th March, in other villages where fluctuating cultivation is practised the 15th February, and in the case of estates in all other villages the 31st December. If the latest date falls on a gazetted holiday, petitions for relinquishment may be tendered on the first open day after such holiday.

The written petition shall contain particulars of each field which the settlement-holder wishes to relinquish and of the land revenue payable in respect of each field, and shall be in such form as the Local Government may from time to time prescribe. On receipt of the petition the Deputy Commissioner or other officer, after making such enquiry as he thinks fit, may pass such order as seems proper. If before the latest date as declared aforesaid a settlement-holder has tendered no petition of relinquishment in respect of land which he holds either on annual or on periodic lease, he shall be liable in the following year for the land revenue assessed on that land.

Settlement  
of land  
previously  
resigned.

56. Notwithstanding anything contained in these rules, if it be proved that the applicant for, or occupant of, any land relinquished it during the previous year, the settlement, if any, with him shall be on an annual lease and he shall be liable to be assessed on such land at 50 per cent. above the rates at which he would otherwise have been assessed. On expiry of such annual lease, re-settlement shall be made with the settlement-holder if he desires it, at the ordinary rates, and under the ordinary rules.

Confirma-  
tion and  
cancellat-  
ion of set-  
tlements.

57. Subject to the general control of the Local Government, the Commissioner shall have power to confirm all settlements, and also to cancel any settlement made in contravention of these rules.

Settlement  
of town  
lands.

58. Unless otherwise directed by the Local Government, nothing in these rules shall apply to land included in a Municipality or military cantonment. The Local Government may, from time to time, prescribe special rules for the settlement of land within two miles of a military cantonment or a Municipality. But unless and until such rules have

been prescribed, the settlement of such land shall be effected under the foregoing rules, provided that no periodic lease can be issued for such land.

58A. Rules 7, 8, 9, 10, 12, 15, 15A and 28 of section I shall apply to applications for the settlement under this section of more than 50 acres of waste land for special cultivation.

Applicability of Section I Rules.

### SECTION III.

#### ORDINARY CULTIVATION—RE-SETTLEMENT.

[*Assessment of land and record-of-rights.*]

59. In these rules, unless there is something repugnant in the subject or context,—

Settlement of a local area or class of estates.

- (a) The *settlement of a local area or class of estates* means a special operation, carried out under the provisions of sections 17-42 of the Regulation for the formal revision of the land revenue demand of that local area or class of estates.
- (b) The *terminal year* 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, remain in force.
- (c) All other expressions used in these rules shall have the same meaning as in the Assam Land and Revenue Regulation and the rules under sections 12 and 29 of the Regulation.

60. When the Local Government have declared that a local area or class of estates is under settlement, they may, for the purpose of carrying out the operations, appoint under section 133 of the Regulation a Settlement Officer and one or more Assistant Settlement Officers; and also under section 134 of the Regulation a Survey Officer and one or more Assistant Survey Officers; provided that the same officer may be vested with the powers of a Settlement Officer and a Survey Officer, or with the powers of an Assistant Settlement Officer and an Assistant Survey Officer.

Appointment of Settlement and Survey Officers.

61. The land revenue shall be assessed on the principle of classifying the villages and the fields and assessing a fair rate per bigha as the land revenue payable in respect of each class of land within each class of village,

Principle of assessment.



provided that in the case of land settled as land but used as a fishery Government may, instead of fixing a high rate, settle the land at a rate for the whole area proportionate to its value.

Period of settlement.

62. The term for which the land revenue is to be assessed shall, subject to the provisions of rule 1, published under Notification No. 1898R., dated the 5th May 1913, be such period as the Local Government may determine in respect of each local area or class of estates.

Annual and periodic leases.

63. Settlement shall be made by granting annual or periodic leases. Periodic leases shall ordinarily run up to the terminal year of the coming assessment. Where land has been taken up for a dwelling house or for a permanent cultivation, a periodic lease shall ordinarily be granted. In all other cases the lease shall be annual : provided that a person who has already acquired the status of land-holder in respect of any land shall be entitled to receive a periodic lease.

Procedure for assessment of land.

64. The manner in which the Settlement Officer shall report for sanction his rates and method of assessment is set forth in rules 65-70 below.

Ditto.

65. The assessment of land shall consist of the following processes :—

- (a) Preliminary record-writing and field classification.
- (b) Record attestation.
- (c) Submission of assessment reports.
- (d) Revenue attestation.
- (e) Offer of settlement.

Preliminary record-writing and field classification.

66. After a village has been surveyed and demarcated a draft *chitha* or field index shall be prepared. The *chitha* shall be arranged according to the serial numbers of the fields in the village, and shall show, in addition to such other particulars as the Local Government may direct, the name of the person who is in possession of each field and the classification of the field according to a terminology to be previously approved by the Local Government. Disputes regarding the ownership of land or regarding the ownership of any interest in land shall be decided in a

summary manner, and on the basis of actual possession by the Settlement Officer or an Assistant Settlement Officer. The classification of as many fields as possible shall at this stage be tested on the ground by the Settlement Officer, the Assistant Settlement Officer, and officers not below the rank of Kanungo.

67. Before record attestation begins, the Settlement Officer shall cause a draft *jamabandi* to be prepared showing, in addition to such other particulars as the Local Government may direct, the fields which have been found in the possession of each *raiyat* and the classification of each field as entered in the draft *chitha*, but at this stage no revenue will be entered in the draft *jamabandi*. Each *raiyat* shall be furnished, before record attestation begins, with an extract from the draft *jamabandi* showing the fields which have been found in his possession and the proposed classification of each field. The record attestation of each village shall be taken up by the Settlement Officer or Assistant Settlement Officer, hereinafter called the Attestation Officer, at a convenient place in or near the village. A proclamation shall previously be published in the village giving due notice to the *raiyats* and calling on them to appear before the Attestation Officer, bringing with them their extracts from the draft *jamabandi*. As each *raiyat* appears before him, the Attestation Officer, if the *raiyat* so desires, shall examine the entries in the draft *jamabandi* which relate to this *raiyat*, shall read out and explain the entries, and shall make corrections where required. Disputes regarding the ownership of land, or the ownership of any interest in land, shall be decided by the Attestation Officer in a summary manner and on the basis of actual possession. In the course of record attestation all fields which have not already been inspected by a Kanungo or officer of higher rank shall now be inspected and the classification of the field shall be tested and, if necessary, corrected. The Attestation Officer shall hear and decide all objections to the classification of fields, and in all cases in which the field has not been inspected by the Settlement Officer or an Assistant Settlement Officer, he shall personally inspect the field before deciding on its classification.

68. When the record attestation of a convenient group of villages has been completed, the Settlement Officer shall prepare an assessment report for that group. The report will contain the proposals of the Settlement Officer regard-

Record  
attestation.

Submission  
of assess-  
ment  
reports.