

Payment
of land
revenue to
the Tahsil-
dar.

12. The proprietors of permanently-settled estates and the settlement-holders of temporarily-settled estates shall pay land revenue to the Tahsildar of the tahsil within whose jurisdiction their estates are situated. If an estate is situated within more than one tahsil, the Deputy Commissioner shall determine to what tahsil the revenue shall be payable:

Provided that, if the revenue of any estate is not paid to a Tahsildar in sufficient time to admit of the fact of payment being reported to an officer proposing to sell such estate on account of the non-payment of such revenue before the day fixed for the sale, payment must be made to the officer holding the sale or to any person authorised to receive such revenue on his behalf.

Erection
of Notice-
Board.

13 (1) The Deputy Commissioner will cause to be erected a sufficient number of posting boards in convenient situations throughout the portions of the district which are permanently settled. Every such board will have a number painted on it, by which it will be known, and the Deputy Commissioner will cause to be prepared lists of the posting boards situated in the headquarters and other subdivisions, respectively, indicating approximately the situation of the same.

The notice-boards will ordinarily be arranged pargana-wari; all the estates of one pargana will be posted on one or more notice-boards in that pargana as may be thought necessary. The estates of two parganas will not ordinarily be posted on one notice-board.

(2) The Deputy Commissioner, with the previous sanction of the Commissioner, may, from time to time, alter the number and situation of posting boards, but no such alteration will be made until two months' notice of the same has been given by a proclamation posted at the subdivisional office, and on each posting board affected thereby.

(3) The original or a copy of every list of notice-boards prepared and for the time being in force will be open inspection by the public free of charge in the same manner as the sale statement referred to in rule 4.

Chapter V.—Rules under sections 114, 121 and 155, Chapter VI, relating to the partition and union of estates.

173. Applications for partition (perfect and imperfect) shall be made and shall be verified and signed by the applicant or by an agent duly authorised by him in that behalf.

Applica-
tion to be
verified
and signed.

174. The fees or other costs in respect of the service or publication of the notice under section 99 of the Land and Revenue Regulation will either be paid with the application or within the time allowed by the Deputy Commissioner or Subdivisional Officer, failing which the application will be rejected.

Fees pay-
able for
notice.

175. As soon as possible after the issue of an order under section 102, directing the partition to be made, the revenue officer authorised to make partition will prepare an estimate of costs and submit it to the Deputy Commissioner for approval.

Estimates
of cost of
partition.

The Deputy Commissioners in the plains districts may sanction within their budget grants the entertainment, for a period not exceeding 6 months, of such temporary establishments as are required from time to time in connection with partition proceedings subject to the condition that the pay and allowances of no individual appointment exceed Rs. 30 a month.

176. The estimated costs of survey and partition shall be paid by the applicant and other sharers in proportion to their respective shares within the period allowed, which shall not be less than 30 days or more than 60 days from the date of the approval of the estimate by the Deputy Commissioner.

Cost by
whom and
when paid.

177. If the applicant pays his share of costs, but the other sharers do not pay, the revenue officer authorised to make the partition shall, under section 144 of the Regulation, realise the costs rateably from the defaulters under section 69.

Realisation
of unpaid
costs.

178. Should the actual cost of survey and partition finally exceed the cost paid under the preceding rule, the extra cost shall be realised rateably from the applicant and other proprietors or land-holders of the estate, and until such costs shall have been realised, no final order of partition shall be passed.

Recovery
of costs in
excess of
estimates.

Refund of
excess pay-
ments.

179. Any excess cost deposited by the parties shall be refunded to them by the revenue officer authorised to make the partition, provided that application therefor is made within one year from the final confirmation of the partition, after which the amount will lapse to Government.

Limit
placed
on
cost of
partition.

180. The cost of survey and partition shall ordinarily not exceed the following rates :—

- (a) If the area of the estate to be partitioned does not exceed 200 acres, at Rs. 40 per 100 acres.
- (b) If it exceeds 200 acres, but does not exceed 400 acres, the first 200 acres at Rs. 40 and the remainder at Rs. 35 per 100 acres.
- (c) If it exceeds 400 acres, but does not exceed 600 acres, 200 acres at Rs. 40, 200 acres at Rs. 35, and the remainder at Rs. 30 per 100 acres.
- (d) If it exceeds 600 acres, 200 acres at Rs. 40, 200 acres at Rs. 35, 200 acres at Rs. 30, and the remainder at Rs. 15 per 100 acres.

Form of
application
for union.

181. The application for union of estates may be presented by the applicant or by any person duly authorised by him in writing in that behalf.

Registers.

182. The following registers shall be kept in the office of every Deputy Commissioner and Subdivisional Officer :—

- (1) Register of Applications for Perfect Partitions of Estates.
- (2) Register of Applications for Imperfect Partitions of Estates.
- (3) Register of Union of Estates.

Power to
alter
forms.
Possession
shall be
given by
removing
proprie-
tors, etc.,
if neces-
sary.

183. *Cancelled.*

184. When a partition has been made, the Deputy Commissioner shall give the several sharers possession of the separated lands allotted to them by removing, if necessary, any proprietor or land-holder who may refuse to vacate the same.

Chapter VI.—Rules under Sections 129, 152 and 155(b) relating to procedure, the mode of serving processes, and process-fees.

185. The provisions of the Code of Civil Procedure and of enactments amending the same, relating to the trial of suits, the evidence and examination of witnesses, procuring the attendance of witnesses and the production of documents, shall apply to all proceedings of a judicial nature, other than appeals, held before a Deputy Commissioner or other Revenue Officer or a Settlement Officer duly empowered to hold such proceedings.

Judicial
procedure
in revenue
cases.

For the purposes of this rule, the following proceedings under the Land and Revenue Regulation shall be regarded as proceedings of a judicial nature:—

- (a) Proceedings in connection with boundary disputes (section 23).
- (b) Proceedings in connection with disputes relating to the record-of-rights (sections 41 and 42).
- (c) Resumption proceedings (section 43).
- (d) Proceedings in connection with applications for mutation and registration of names (sections 53 and 54).
- (e) Proceedings in connection with applications for registration of *talukdari* and other similar tenures (section 56).
- (f) Proceedings in connection with applications for separate accounts (section 65).
- (g) Proceedings arising out of the attachment or sale of moveable or immoveable property, or of applications to set aside sale, under Chapter V.
- (h) Proceedings in connection with the partition or union of estates under Chapter VI.
- (i) Any other proceedings expressly declared by rules issued under the provisions of the Land and Revenue Regulation to be judicial proceedings.

186. In proceedings other than those mentioned in rule 185 witnesses shall not be examined on oath, and a memorandum only of their evidence shall be recorded. Such memorandum shall be written and signed by the Revenue

Executive
procedure.

Officer who examines the witnesses, and may be written in the language of the Court, or in English, if the Revenue Officer is sufficiently acquainted with English.

Power of Deputy Commissioner and Subdivisional Officer to distribute work.

187. A Deputy Commissioner or Subdivisional Officer shall not, under section 129 of the Land and Revenue Regulation, refer any case for investigation or report to a Revenue Officer of lower rank than a Pahsildar, Mauzadar or Sub-Deputy Collector, nor shall he direct any Revenue Officer below such rank to deal with, and to investigate and report on, any case or class of cases without reference.

Appeal procedure and register.

188. No appeal petition shall be entertained that is not properly stamped or accompanied by a certified copy of the order appealed against.

A Register of appeals shall be kept in every revenue appellate court.

Mode of service of processes.

189. Except where otherwise directed by the Land and Revenue Regulation or by rules issued thereunder, the provisions of the Civil Procedure Code and of enactments amending the same shall apply to the issue, service, and return of processes on parties and witnesses in any revenue case, appeal, or investigation pending before a Revenue Officer or a Settlement Officer.

Fees on Judicial processes.

190. Fees on processes which are issued by Revenue Officers or Settlement Officers in cases under Act VIII (B. C.), 1869, and in cases of judicial nature as defined in rule 185, shall be charged for in accordance with the rules framed by the High Court of Judicature at Fort William in Bengal under clause 1, section 20, of the Court-fee Act, VII of 1870, and confirmed by the Local Government.

Fees on executive processes.

191. The following rules relate to fees chargeable on executive processes:—

- (a) Except where otherwise directed in any rule issued under the Land and Revenue Regulation, fees on executive processes shall be charged at the uniform rate of one rupee on every warrant, and at the same rate on every summons, notice, proclamation or other order issued :

Provided that, when processes of any one kind other than warrants are to be served or executed in the same case and at the same time on more persons than one, the fee leviable shall be four annas for each such person subject to a minimum of one rupee and a maximum of Rs. 2-8 for all processes. No fee shall be charged on notices inviting claimants to property pledged as security by mauzadars.

- (b) An order calling upon a mauzadar or tahsildar for report, or informing them of orders passed in any case by a Revenue Officer, is not a process within the meaning of this rule, and no fee shall be charged on such orders.
- (c) In the district of Sylhet, where during the rainy season travelling except by boat is impracticable, the Government shall defray all charges on account of boat-hire or ferry-toll, where such toll is legally exigible; but, in consideration of this, the fees leviable under these rules shall be increased by 25 per cent. from the 1st June to the 30th November.
- The Commissioner may extend this rule to any local area in his jurisdiction.
- (d) Postal charges, when the process has to be sent by post, shall be defrayed by Government.
- (e) If a peon is detained at the place of service for more than 24 hours at the request of the person at whose instance the process was issued, or of his agent, such person or agent must pay demurrage at 5 annas a day, and in the districts of Lakhimpur and Sibsagar at 6 annas a day.
- (f) Processes issued by, or at the instance of, a Revenue Officer other than a mauzadar acting in his official capacity, shall be served in the first instance free of charge, but the fees chargeable under these rules shall be levied from the parties to the case, according as the Revenue Officer disposing of the case may determine. The fees so recovered shall be attached in court-fee stamps to the Nazir's report of recovery of the fees :
- Provided that, in special cases processes may be issued at the instance of a mauzadar without prepayment of process-fees.
- (g) In respect of each peon necessary to ensure safe custody of attached property when he is left actually in charge, a daily fee of 5 annas, and in the districts of Lakhimpur and Sibsagar a daily fee of 6 annas, shall be charged.
- (h) In cases where a demurrage fee, or a fee for the safe custody of property, is leviable under clause (e) or (g) of this rule, the additional fee which may become payable after process has issued shall be

paid by filing a written requisition to the Revenue Officer who issued the process to receive the fee, which document shall bear on its face stamps equivalent to the additional fee, with a memorandum of the purpose for which it is paid.

- (i) Applications for refund of process-fees paid under these rules shall not be entertained unless preferred within one year of the date on which the fees were paid.
- (j) All fees for executive processes shall be prepaid in stamps, whenever possible, to be affixed to the application for issue of process. Where post-payment is unavoidable, and the fees are paid in stamps, the Nazir shall affix the stamps to his report; if paid in cash, the Nazir on receipt of the amount shall buy the necessary stamps and affix them to the report. In all cases the stamps shall be punched in the presence of or by a Revenue Officer:

Provided that in cases in which process-fees are remitted by money-order whether singly or with land revenue or local rates, the fees should be finally credited to Government in the treasury accounts as a receipt under the head 'XVII—Administration of Justice—Court-fees realised in cash.' The Treasury Officer will note on the money-order coupon the number and date of the credit and send it forthwith to the Nazir to make a note of payment of the fees in his process register. On the face of the process a note will similarly be made in red ink showing the payment of the amount of process-fees and the number and date of the treasury voucher.

Rules framed under section 155 (f) regulating the entry by mining licensees on settled land.

1. Where the surface of any land covered by a prospecting license is in the occupation of any person other than the licensee,

- (i) the licensee shall not enter upon such land except with the consent of the occupier or in the absence of such consent without the written authority of the Deputy Commissioner;
- (ii) the licensee shall not in any way injure any trees, standing crops, buildings, huts, structures or other property of the occupier of any land or of any other person except with the consent of such occupier or person or in case of his refusal, without the written authority of the Deputy Commissioner;
- (iii) the Deputy Commissioner shall not grant authority under clause (i) or under clause (ii) unless he is satisfied that the rights conferred by the license cannot be exercised except by the grant of such authority;
- (iv) the Deputy Commissioner may assess or cause to be assessed any damage or injury which may be done by the licensee to the property of the occupier of the land or of any other person and may pay the amount so assessed to such occupier or other person out of the deposit made by the licensee.

2. Where the surface of any land covered by a mining lease is in the occupation of any person other than the lessee,

- (i) the lessee shall have liberty and power to enter upon such lands in the exercise of the rights granted by the lease; provided that without the consent of the occupier, and in the absence of such consent without the written authority of the Deputy Commissioner, he shall not enter into any building or structure, or into any enclosed yard or garden;
- (ii) no surface operations shall be carried on in or upon the site of any dwelling house or in such a manner as to injure any buildings, structures, property or rights of other persons without their

consent or in the absence of such consent without the written authority of the Deputy Commissioner ;

- (iii) the Deputy Commissioner shall not grant authority under clause (i) or (ii) unless he is satisfied that the rights conferred by the lease cannot be exercised except by the grant of such authority ;
- (iv) no land which is in the occupation of any person other than the lessee shall be used for surface operations if any other land not so occupied is suitable and available for surface operations ;
- (v) the lessee shall not without the express sanction of the Deputy Commissioner cut down or injure any timber or trees on such land, but may without such sanction clear away any brushwood or undergrowth which interferes with the exercise of the rights granted by the lease ;
- (vi) the Deputy Commissioner may assess or cause to be assessed any damage or injury which may be done by the lessee to the property of the occupier of such land or of any other person and may order the amount so assessed to be paid by the lessee.

REGULATION 3 OF 1879.

(THE ASSAM LOCAL RATES REGULATION, 1879.)

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