



## The Bengal Land-Revenue Sales Act, 1868

Act 7 of 1868

**Keyword(s):**

**Proprietor, Revenue, Estate, Tenure, Jurisdiction**

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# Bengal Act VII of 1868

## [THE BENGAL LAND-REVENUE SALES ACT, 1868.]

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### CONTENTS.

Preamble.

Section.

1. Interpretation.
2. Appeals against sales.
3. Time for Revenue-sales extended.
4. Time for confirmation of sales extended.
5. Mode of serving notices.
6. Power to cause notices to be served for arrears or demands.
7. Notices to *raiyats* to be posted in subdivisional *cutcherry*.
8. Certificate to be conclusive evidence of regularity in service of notices.
9. *(Repealed)*.
10. Collectorate to include all estates borne on its roll.
11. Power to sell tenures.
12. Effect of sale of tenure.
13. Power of enhancement.
14. Saving of right of *raiyat*.
15. to 29. *(Repealed)*.
30. Construction of this Act and Act XI of 1859.

Schedules A to E *(Repealed)*.

# Bengal Act VII of 1868

## [THE BENGAL LAND-REVENUE SALES ACT, 1868.]<sup>1</sup>

SUPPLEMENTED	..	Ben. Act I of 1805.
SHORT TITLE GIVEN	..	Act I of 1903.
REPEALED IN PART	..	[ Act XII of 1873. Act I of 1903. Ben. Act VII of 1880.
AMENDED	..	[ Ben. Act II of 1871. Ben. Act I of 1939. Ben. Act VII of 1942.
ADAPTED	..	[ (a) The Government of India (Adaptation of Indian Laws) Order, 1937. (b) The Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948. (c) The Adaptation of Laws Order, 1950.

<sup>1</sup>SHORT TITLE.—This short title was given by the Amending Act, 1903 (I of 1908).

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see the *Calcutta Gazette*, of 1868, page 471; and for Proceedings in Council, see *ibid*, Supplement, 1868, pages 247, 281, 390, 413, 509 and 523.

LOCAL EXTENT.—Since this Act is (see section 30, *post*, page 107) to be read with and taken as part of the Bengal Land-revenue Act, 1859 (XI of 1859), it has the same local extent as that Act.

The Act has been extended, by notification under the Scheduled Districts Act, 1874 (XIV of 1874), section 5, to the following Scheduled Districts, namely:—

- the Western Duars, in the Jalpaiguri district;
- the Darjeeling district.

It will be noticed that this Act has not, like the Bengal Land-revenue Sales Act, 1859 (XI of 1859), been expressly declared, by notification under the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in West Jalpaiguri.

THE CERTIFICATE PROCEDURE.—As to the recovery, under the certificate procedure, of arrears of revenue not realised by sale under the present Act, and of money declared to be recoverable under the present Act, see the Bengal Public Demands Recovery Act, 1913 (Ben. Act III of 1913), section 3(6) and Sch. I.

## (Section 1.)

[26th August, 1868.]

An Act to make further provision for the recovery of arrears of land-revenue and public demands recoverable as arrears of land-revenue.

Preamble. WHEREAS it is expedient to amend and extend the law for the recovery of arrears of land-revenue and of public demands recoverable as arrears of land-revenue;

It is declared and enacted as follows:—

Interpretation. 1. In this Act, and in <sup>1</sup>[the Bengal Land-revenue Sales Act, 1859,] the words in this section mentioned shall have the meanings therein attributed to them, respectively—

"proprietor." the word "proprietor" includes any tenant by whom any estate or tenure is held directly <sup>2</sup>[under the Government];

"revenue." the word "revenue" includes every sum annually payable to Government by the proprietor of any estate or tenure in respect thereof, and every sum payable to Government in respect of *takavi*, or of any money advanced by Government to proprietor of land for making or repairing embankments, reservoirs or water courses, or other improvements on the land held by them;

"estate." the word "estate" means any land or share in land subject to the payment to Government of annual sum in respect of which the name of a proprietor is entered on the register known as the general register of all revenue-paying estates, or in respect of which a separate account may, in pursuance of section 10 or section 11 of the said Act XI of 1859,<sup>3</sup> have been opened;

"tenure." the word "tenure" includes all interests in land, whether rent-paying or *lakhiraj* (other than estates as above defined), and all fisheries, which, by the terms of the grants creating the same or by the custom of the country, are transferable, whether such tenures are resumable or not, and whether the right of selling or bringing them to sale for an arrear of rent may not have been specially reserved by stipulation in any instrument;

<sup>1</sup>These words and figures were substituted for the words, figures and brackets "Act XI of 1859 (to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency,)" by s. 2 and Schedule I of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

<sup>2</sup>The words "under the Crown" were first substituted for the words "under Government" by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "Government" was substituted for the words "Crown" by para. 4 (1) of the Adaptation of Laws Order, 1950.

<sup>3</sup>The Bengal Land-revenue Sales Act, 1859.

of 1868.]

(Sections 2, 3.)

the "jurisdiction" of a Collector means the district to which such Collector is appointed, or throughout which any officer vested with the powers of a Collector is authorized to exercise such powers;

"jurisdiction."

the word "Collector" includes any person vested with the powers of a Collector.

"Collector."

\* \* \* \* \*

2. It shall be lawful for the Commissioner of Revenue to receive an appeal against any sale made under this Act or the said Act XI of 1859<sup>1</sup>,  
 \* \* \* so that such appeal be preferred to such Commissioner on or before the sixtieth day from the day of sale, reckoning as in section 23 of the said Act XI of 1859<sup>2</sup>, or be presented to the Collector or other officer duly authorized to hold sales under the said Act for transmission to the Commissioner on or before the forty-fifth day from the day of sale, reckoning as aforesaid, and not otherwise;

Appeals against sales.

and the Commissioner shall be competent, in every case of appeal so preferred, to annul any sale of an estate or share of an estate made under this Act or Act XI of 1859<sup>2</sup>, which shall appear to him not to have been conducted according to the provisions of the said Act, awarding at the same time to the purchaser a payment from the proprietor of compensation<sup>4</sup> for his loss, if the sale shall have been occasioned by neglect of the proprietor, such compensation not to exceed the interest at the highest rate of the current Government securities on the amount of deposit or balance of purchase-money during the period of its being retained in the Collector's office;

and the order of the Commissioner shall in such cases be final.

3. \* \* \* \* \* The word "thirty" shall be substituted for the word "fifteen" in section 6 of the said Act XI of 1859<sup>2</sup> \* \* \* \*

Time for revenue - sales extended.

<sup>1</sup>The remainder of section 1, was repealed by the Public Demands Recovery Act, 1880 (Ben. Act VII of 1880).

<sup>2</sup>The Bengal Land-revenue Sales Act, 1859.

<sup>3</sup>The words "not being a sale made under, and by virtue of, any execution issued upon a certificate made as hereinafter is provided," were repealed by the Public Demands Recovery Act, 1880 (Ben. Act VII of 1880).

<sup>4</sup>As to the recovery under the certificate procedure of sums awarded as compensation under this Act, see section 3(6) and Sch. I of the Bengal Public Demands Recovery Act, 1913 (Ben. Act III of 1913).

<sup>5</sup>The words "From the date when this Act comes into operation," in sections 3 and 4 were repealed by s. 4 and the Third Schedule of the Amending Act, 1903 (I of 1903).

<sup>6</sup>The words "and the words "or more than thirty" in the same section shall be omitted therefrom, and the said section shall be read as if the same had not been inserted therein" were repealed by s. 4 and the Third Schedule of the Amending Act, 1903 (I of 1903).

## (Sections 4-6.)

Time for confirmation of sales <sup>2</sup> extended.

4. \* \* \* The words "sixtieth" and "sixty" shall be substituted for the words "thirtieth" and "thirty" respectively, wherever the said words occur in section 27 of the said Act XI of 1859<sup>2</sup>.

Mode of serving notices.

5. Every notice in and by this Act, or by the said Act XI of 1859<sup>2</sup>, directed to be served, shall be served by delivering to the person to whom it may be directed a copy thereof attested by the Collector, or by delivering such copy at the usual place of abode of such person to some adult male member of his family, or, in case it cannot be so served, by posting such copy upon some conspicuous part of the usual or last-known place of abode of such person.

In case such notice cannot be served in any of the ways hereinbefore mentioned, it shall be served in such way as the Collector issuing such notice may direct.

Power to cause notices to be served for arrears or demands.

6. It shall be lawful for the <sup>3</sup>[State Government] <sup>4</sup>\* \* \*, by an order published in the <sup>5</sup>[*Official Gazette*], to empower all Collectors in any district in such order mentioned, if they shall think fit, to cause such notices as shall be in such order specified to be served upon any proprietors <sup>6</sup>\* \* \* before proceeding under the provisions of the said Act XI of 1859<sup>2</sup> or of this Act, to realize from such proprietors <sup>7</sup>\* \* \*, any arrears of revenue <sup>8</sup>\* \* \* which be due from such proprietors <sup>9</sup>\* \* \*;

and the costs of serving any such notices as shall be served under the powers conferred by any such order, not exceeding such sums as shall in such order be specified, shall be added to any arrears of revenue <sup>9</sup>\* \* \* which may be due from such proprietor <sup>7</sup>\* \* \*, and shall be recoverable as if the same were a portion of such arrears of revenue <sup>10</sup>\* \* \* \* \*;

<sup>1</sup>See foot-note 5 on page 137, *ante*.

<sup>2</sup>The Bengal Land-revenue Sales Act, 1859.

<sup>3</sup>The words "Provincial Government" were first substituted for the word "Lieutenant-Governor" by para. 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

<sup>4</sup>The words "of Bengal" were omitted by para. 3(1) and the Schedule of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

<sup>5</sup>These words were substituted for the words "*Calcutta Gazette*" by para. 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>6</sup>The words "or persons liable to any demands," were repealed by the Public Demands Recovery Act, 1880 (Ben. Act VII of 1880).

<sup>7</sup>The words "or persons" were repealed, *ibid*.

<sup>8</sup>The words "or any demands," were repealed, *ibid*.

<sup>9</sup>The words "or to any demands" were repealed, *ibid*.

<sup>10</sup>The words "or of such demands" were repealed, *ibid*.

of 1868.]

(Sections 7-11.)

and every such order may from time to time be altered, varied or revoked by any other order of the said <sup>1</sup>[State Government] to be from time to time in like manner published.

7. In addition to the notices in and by section 7 of the said Act XI of 1859<sup>2</sup> directed to be posted, a similar notice shall be posted at the subdivisional *cutcherry* within the jurisdiction of which the estate to which such notice refers, or some portion thereof, is situate.

Notices to raiyats to be posted in subdivisional *cutcherry*.

8. Every certificate of title which may be given to any purchaser under the provisions of section 28 of the said Act XI of 1859<sup>2</sup>, or of section 11 of this Act, shall be conclusive evidence in favour of such purchaser, and of every person claiming under him, that all notices in or by this Act, or by the said Act XI of 1859<sup>2</sup>, required to be served or posted, have been duly served and posted;

Certificate to be conclusive evidence of regularity in service of notices.

and the title of any person who may have obtained any such certificate shall not be impeached or affected by reason of any omission, informality or irregularity as regards the serving or posting of any notice in the proceedings under which the sale was had at which such person may have purchased.

9. [*Sales of lakhiraj valid*].—*Rep. by s. 4 and the Third Schedule of the Amending Act, 1903 (I of 1903).*

10. Every estate shall, for the purposes of this Act and of the said Act XI of 1859<sup>2</sup>, be deemed to be within the Collectorate of the Collector upon whose general register the revenue thereof may be borne, although the whole or any portion of the lands comprised in such estate may be without the local limits of his jurisdiction; but all land and tenures shall be deemed to be within the local limits of which they may be situate, although the estate of which they form a part may, under the provisions of this section, be deemed to be within the collectorate of any other Collector.

Collectorate to include all estates borne on its roll.

<sup>3</sup>11. Whenever any revenue payable to Government in respect of any tenure not being an estate shall be in arrear after the latest day of payment fixed in the manner prescribed in section 3 of Act XI of 1859<sup>2</sup>, the Collector to whom such revenue is payable may cause the tenure to be sold in the manner and subject to the provisions in and by the said Act XI of 1859<sup>2</sup> provided for the sale of estates for the recovery of arrears of revenue;

Power to sell tenures.

<sup>1</sup>See foot-note 3 on page 138, *ante*.

<sup>2</sup>The Bengal Land-revenue Sales Act, 1859.

<sup>3</sup>This section was substituted for the original section by the Bengal Land-revenue Sales (Amendment) Act, 1871 (Ben. Act II of 1871).

## (Section 12.)

and the Collector shall apply the purchase-money arising from such sale according to the provisions of section 31 of the said Act XI of 1859<sup>1</sup>, except that the residue, if any, shall be held in deposit on account of the holder of the tenure and not on account of the holder of the estate;

and every such Collector shall, upon every such sale of any tenure being final and conclusive, give to the purchaser thereof such certificate of title thereof as is provided in section 28 of the said Act XI of 1859<sup>1</sup> with respect to estates:

Provided that no tenure shall be sold for the recovery of arrears of revenue other than those of the current year or of the year immediately preceding, nor for the recovery of arrears of revenue due by tenures under attachment by order of any judicial authority, unless and until after a notification in the language of the district, specifying the nature and amount of the arrear and the latest date on which payment thereof shall be received, shall have been fixed, for a period of not less than fifteen clear days preceding the date fixed for payment according to section 3 of Act XI of 1859<sup>1</sup>,

in the office of the Collector or other officer duly authorized to hold sales under this Act, in the Court of the Judge within whose jurisdiction the land advertised lies, and in the *Munsif's* Court and police-*thana* of the division in which the tenure to which the notification relates is situated, or, if the tenure be situated within the jurisdiction of more than one *Munsif's* Court or Police-*thana*, in some one or more of such Courts of *thanas*, and also at the *cutcherry* of the *malguzar* or owner of the tenure, or at some conspicuous place upon the tenure, the same to be certified by the peon or other person employed for the purpose.

Effect of  
sale of  
tenure.

12. The purchaser of any tenure sold under the provisions of section 11 of this Act shall acquire it free from all incumbrances which may have been imposed upon it after its creation, or after the time of settlement, whichever may have last occurred, and shall be entitled to avoid and annul all under-tenures, and forthwith to eject all under-tenants, with the following exceptions:—

*First.*—*Istimrari* or *mukarrari* tenures which have been held at fixed rent from the time of the permanent settlement;

*Secondly.*—Tenures existing at the time of Permanent Settlement, which have not been held at a fixed rent:

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<sup>1</sup>The Bengal Land-revenue Sales Act, 1859.



of 1868.]

(Sections 13-30.)

Provided always that the rent of such tenures shall be liable to enhancement under any law for the time being in force for the enhancement of the rent of such tenures;

*Thirdly.*—Tenures created or recognised by the settlement-proceedings of any current temporary settlement, as tenures bearing a rent which is fixed for the period of such settlement;

*Fourthly.*—Tenures of lands whereon dwelling-houses, manufactories or other permanent buildings have been erected, or whereon permanent gardens, plantations, tanks, canals, places of worship or burning or burying grounds have been made.

Power of enhancement.

13. Every purchaser of a tenure under section 11 of this Act shall be entitled to proceed in the manner prescribed by any law for the time being in force for the enhancement of the rent of any land coming within the fourth class of exceptions above made, if he can prove the same to have been held at what was originally an unfair rent, unless the same shall have been held for a term exceeding twelve years at a fixed rent equal to the rent of good arable land.

Saving of rights of raiyat.

14. Provided always that nothing hereinbefore contained shall be construed to entitle any such purchaser, under section 11 of this Act, to eject any *raiyat* having a right of occupancy at a fixed rent, or at a rent assessable according to fixed rules under the laws in force, or to enhance the rent of any such *raiyat* otherwise than in the manner prescribed by such laws or otherwise than as the former proprietor irrespectively of all engagements made since the time of settlement, may have been entitled to do.

15 to 28. [*Certificates of unliquidated arrears executable as decree of Civil Court; notice of certificate; objections to certificate; enforcement of certificate; register of certificates; inspection of register; entry of satisfaction; transmission of sums received.*]—Rep. by the Public Demands Recovery Act, 1880. (Ben. Act VII of 1880.)

29. [*Repeal by enactments.*]—Rep. by the Repealing Act, 1873 (XII of 1873).

Construction of this Act and Act XI of 1859.

30. This Act shall be read with, and taken as part of, the Bengal Land-revenue Sales Act, 1859, as modified for the time being, and all references in this Act to the Bengal Land-revenue Sales Act, 1859, or any provision thereof shall be deemed to be references to the said Act or provision, as the case may be, for the time being in force.

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<sup>1</sup>This section was substituted for the original section by s. 4 of the Bengal Land-revenue Sales (Amendment) Act, 1942 (Ben. Act VII of 1942).

*The Bengal Land-revenue Sales Act, 1868.*

[Ben. Act VII of 1868.]

*(Schedules A-E.)*

SCHEDULES A, B, C, D, E.

*Rep. by s. 4 and the Third Schedule of the Amending Act, 1903  
(1 of 1903).*

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