



Government of Bengal
Legislative Department

Act VIII of 1885

The Bengal Tenancy Act 1885.

As modified up to the 1st September, 1933

X9J: 2262
9 G 4
22398
1057

Superintendent, Government Printing
Bengal Government Press, Alipore, Bengal
1934

Price—Indian, 8 annas; English, 10d.



Government of Bengal

Legislative Department

Act VIII of 1885.

The Bengal Tenancy Act

1885

As modified up to the 1st September, 1933

Superintendent, Government Printing
Bengal Government Press, Alipore, Bengal
1934

**Published by the Bengal Secretariat Book Depot,
Writers' Buildings, Calcutta.**

Agents in India.

Messrs. S. K. Lahiri & Co., Printers and Booksellers, College Street, Calcutta.

Messrs. Thacker, Spink & Co., Calcutta.

**Customers in the United Kingdom and the Continent of Europe
may obtain publications either direct from the High Commissioner's office
or through any bookseller.**

STATEMENT OF REPEALS AND AMENDMENTS.

| | | | |
|---|-----------|-----------|---|
| <p>REPEALED IN PART AND AMENDED ..</p> | <p>..</p> | <p>..</p> | <p>{ Ben. Act I of 1907 ; E. B. & A. Act I of 1908 ; Act XXXVIII of 1920 ; Ben. Act IV of 1928 ; Ben. Act II of 1930.</p> |
| <p>AMENDED</p> | <p>..</p> | <p>..</p> | <p>{ Act VIII of 1886 ; Ben. Act III of 1898; Ben. Act I of 1903 ; Ben. Act III of 1913; Ben. Act II of 1918 ; Ben. Act III of 1919; Ben. Act X of 1923 ; Ben. Act I of 1925.</p> |
| <p>SUPPLEMENTED ..</p> | <p>..</p> | <p>..</p> | <p>.. Ben. Act III of 1895, ss. 20, 28 to 32, 36(c).</p> |

Note—In reprinting this Act,—

- (1) matters repealed by later Acts have been omitted, explanatory notes being inserted ;
- (2) the amendments made by later Acts have been inserted in their proper places with explanatory foot-notes ;
- (3) some further foot-notes have been added for convenience of reference ;
- (4) the marginal notes to sections have been revised, wherever this was necessary, in order to bring them into harmony with the amendments made in the sections ;
- (5) the number and year of Acts referred to in the text have been uniformly printed in the margin ;
- (6) words belonging to the Oriental languages have, as a rule, been printed in italics; and
- (7) the headings to the pages have been amplified.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTION.

1. Short title.
Commencement.
Local extent.
2. Repeal.
3. Definitions.

CHAPTER II.

CLASSES OF TENANTS.

4. Classes of tenants.
5. Meaning of "tenure-holder" and "raiyat."

CHAPTER III.

TENURE-HOLDERS.

Enhancement of rent.

6. Tenure held since Permanent Settlement liable to enhancement only in certain cases.
7. Limits of enhancement of rent of tenures.
8. Power to order progressive enhancement.
9. Rent once enhanced may not be altered for fifteen years.

Other incidents of tenures.

10. Permanent tenure-holder not liable to ejection.
11. Transfer and transmission of permanent tenure.
12. Voluntary transfer of permanent tenure.
13. Transfer of permanent tenure by sale in execution of decree other than decree for rent.
14. (*Repealed.*)
15. Succession to permanent tenure.
16. Bar to recovery of rent, pending notice of succession.
- 16A. Interpretation.
17. Transfer of, and succession to, share in permanent tenure.

CHAPTER IV.

Raiyats HOLDING AT FIXED RATES.

18. Incidents of holding at fixed rates.

CHAPTER IVA.

PROVISIONS AS TO TRANSFERS OF TENURES AND HOLDINGS AND
LANDLORD'S FEES.

SECTION.

- 18A. Saving as to statements in instruments of transfer where landlord no party.
- 18B. Saving as to acceptance of landlord's fees.
- 18C. Forfeiture of unclaimed landlord's fees.

CHAPTER V.

OCCUPANCY-*raiyats*.*General.*

- 19. Continuance of existing occupancy-rights.
- 20. Definition of "settled *raiyat*."
- 21. Settled *raiyats* to have occupancy-rights.
- 22. Effect of acquisition of occupancy-right by landlord.

Incidents of occupancy-right.

- 23. Rights of *raiyat* in respect of use of land.
- 23A. Rights of occupancy-*raiyat* and landlord in trees.
- 24. Obligation of occupancy-*raiyat* to pay rent.
- 25. Protection from eviction except on specified grounds.
- 26. Devolution of occupancy-right on death.
- 26A. Application of sections 26B to 26J.
- 26B. Holdings of occupancy *raiyats* with occupancy-rights transferable.
- 26C. Manner of transfer and notice to landlord.
- 26D. Landlord's transfer fee.
- 26E. Procedure on sale in execution of a decree, certificate or foreclosure of mortgage
- 26F. Power of immediate landlord to purchase.
- 26G. Limitation on mortgage by occupancy-*raiyat*.
- 26H. Transfer of rent-free holdings.
- 26-I. Interpretation and savings.
- 26J. Landlord's transfer fee with compensation in certain cases of transfer.

Enhancement of rent.

- 27. Presumption as to fair and equitable rent.
- 28. Restriction on enhancement of money-rents.
- 29. Enhancement of rent by contract.
- 30. Enhancement of rent by suit.
- 31. Rules as to enhancement on ground of prevailing rate.
- 31A. What may be taken in certain districts to be the "prevailing rate."
- 31B. Limit to enhancement of prevailing rate.
- 32. Rules as to enhancement on ground of rise in prices.
- 33. Rules as to enhancement on ground of landlord's improvement.
- 34. Rules as to enhancement on ground of increase in productive powers due to fluvial action.
- 35. Enhancement by suit to be fair and equitable.
- 36. Power to order progressive enhancement.
- 37. Limitation of right to bring successive enhancement suits.

CONTENTS.

- Reduction of rent.*
- SECTION.
38. Reduction of rent.
- Price-lists.*
39. Price-lists of staple food-crops.
40. (*Repealed.*)
- 40A. (*Repealed.*)

CHAPTER VI.

NON-OCCUPANCY *raiyats*.

41. Application of Chapter.
42. Initial rent of non-occupancy-*raiyat*.
43. Conditions of enhancement of rent.
44. Grounds on which non-occupancy-*raiyat* may be ejected.
45. (*Repealed.*)
46. Conditions of ejection on ground of refusal to agree to enhancement.
47. Explanation of "admitted to occupation."

CHAPTER VII.

UNDER-*raiyats*.

48. Liability of under-*raiyat* to pay rent.
- 48A. Enhancement of rent of under-*raiyat*.
- 48B. Enhancement by contract.
- 48C. Ejection of under-*raiyat*.
- 48D. Enhancement by suit.
- 48E. Application for restitution by under-*raiyat*.
- 48F. Incidents of holding of under-*raiyat*.
- 48G. Occupancy-rights of under-*raiyat*.
- 48H. Provisions as to *salami*.
49. Mortgage by under-*raiyat*.

CHAPTER VIII.

RESTRICTIONS ON ALIENATION OF LAND BY ABORIGINALS.

- 49A. Application of Chapter.
- 49B. Restrictions on transfer of tenant rights.
- 49C. Lease by tenure-holder.
- 49D. Sub-letting by *raiyat*.
- 49E. Usufructuary mortgage by tenure-holder, *raiyat* or under-*raiyat*.
- 49F. Application to Collector for transfer in certain cases.

SECTION.

- 49G. Courts not to register, or recognize as valid, transfers in contravention of this Chapter.
- 49H. Power to Collector to set aside improper transfers by tenure-holder, *raiyat* or under-*raiyat*.
- 49J. Resettlement of certain tenancies.
- 49K. Restrictions on sale of tenant rights under order of Court.
- 49L. Stay of execution of decrees.
- 49M. Appeal and revision.
- 49N. Bar to suits.
- 49O. Saving of certain transfers.

CHAPTER VIII.

GENERAL PROVISIONS AS TO RENT.

Rules and presumptions as to amount of rent.

- 50. Rules and presumptions as to fixity of rent.
- 51. Presumption as to amount of rent and conditions of holding.

Alteration of rent on alteration of area.

- 52. Alteration of rent in respect of alteration in area.

Payment of rent.

- 53. Instalments of rent.
- 54. Time and place for payment of rent.
- 55. Appropriation of payments.

Receipts and accounts.

- 56. Tenant making payment to his landlord entitled to a receipt.
- 57. Tenant entitled to full discharge or statement of account at close of year.
- 58. Penalties and fine for withholding receipts and statements of account and failing to keep counterparts.
- 59. Local Government to prepare forms of receipt and account.
- 60. Effect of receipt by registered proprietor, manager or mortgagee.

Deposit of rent.

- 61. Application to deposit rent in Court.
- 62. Receipt granted by Court for rent deposited to be a valid acquittance.
- 63. Procedure for payment to the landlord of rent deposited.
- 64. Payment or refund of deposit.

Penalty for refusing to receive rent.

- 64A. Penalty for refusing to receive rent tendered by postal money-order or deposited.

Arrears of rent.

- 65. Liability to sale for arrears in case of permanent tenure, holding at fixed rates or occupancy-holding.
- 66. Ejectment for arrears in other cases.
- 67. Interest on arrears.
- 68. Power to award damages on rent withheld without reasonable cause, or to defendant improperly sued for rent.

SECTION.

- 69. (*Repealed.*)
- 70. (*Repealed.*)
- 71. (*Repealed.*)

Liability for rent on change of landlord or after transfer of tenure or holding.

- 72. Tenant not liable to transferee of landlord's interest for rent paid to former landlord without notice of the transfer.
- 73. Liability for rent before transfer of occupancy-holding.

Illegal cesses, etc.

- 74. *Abwab*, etc., illegal.
- 75. Penalty for exaction by landlord from tenant of sum in excess of the rent payable.

CHAPTER IX.

MISCELLANEOUS PROVISIONS AS TO LANDLORDS AND TENANTS.

Improvements.

- 76. Definition of "improvement."
- 77. Right to make improvements in case of holding at fixed rates and occupancy-holding.
- 78. Collector to decide question as to right to make improvement, etc.
- 79. (*Repealed.*)
- 80. Registration of landlord's improvements.
- 81. Application to record evidence as to improvement.
- 82. Compensation for *raiya*'s improvements.
- 83. Principle on which compensation is to be estimated.

Acquisition of land for building and other purposes.

- 84. Acquisition of land for building and other purposes.
- 85. (*Repealed.*)

Surrender and abandonment.

- 86. Surrender.
- 86A. Effect of exemption from payment of rent or abatement of rent on account of diluvion.
- 87. Abandonment.

Subdivision of tenancy.

- 88. Division of tenancy not binding on landlord without his consent.

Ejectment.

- 89. No ejectment except in execution of decree.

Measurements.

- 90. Landlord's right to measure land.
- 91. Power for Court to order tenant to attend and point out boundaries.
- 92. Standard of measurement.

- Managers.*
- SECTION.
- 93. Power to call upon co-owners to show cause why they should not appoint a common manager.
 - 94. Power to order them to appoint a manager, if cause is not shown.
 - 95. Power to appoint manager, if order is not obeyed.
 - 96. Power to nominate person to act in all cases under clause (b) of section 95.
 - 97. The Court of Wards Act, 1879, applicable to management by Court of Wards.
 - 98. Provisions applicable to manager.
 - 99. Power to restore management to co-owners.
 - 99A. Appointment of common agent.
 - 100. Power to make rules.

CHAPTER X.

RECORD-OF-RIGHTS AND SETTLEMENT OF RENTS.

Part I.—Record-of-rights.

- 101. Power to order survey and preparation of record-of-rights.
- 102. Particulars to be recorded.
- 102A. Power to order survey and preparation of record-of-rights as to water.
- 103. Power for Revenue-officer to record particulars on application of proprietor, tenure-holder or large proportion of *raiyats*.
- 103A. Preliminary publication, amendment and final publication of record-of-rights.
- 103B. Certificate of, and presumption as to, final publication, and presumption as to correctness, of record-of-rights.

Part II.—Settlement of rents, preparation of Settlement Rent-roll and disposal of objections, in cases where a settlement of land-revenue is being or is about to be made.

- 104. Settlement of rents and preparation of Settlement Rent-roll when to be undertaken by Revenue-officer.
- 104A. Procedure for settlement of rents and preparation of Settlement Rent-roll under this Part.
- 104B. (1) Contents of Table of Rates.
(2) Local publication of Table.
(3) Revenue-officer to deal with objections.
(4) Table to be submitted to superior Revenue authority.
(5) Proceedings of confirming authority.
(6) Effect of Table.
- 104C. Application of Table of Rates.
- 104D. Rules and principles to be followed in framing Table of Rates and settling rents in accordance therewith.
- 104E. Preliminary publication and amendment of Settlement Rent-roll.
- 104F. Final revision of Settlement Rent-roll, and incorporation of the same in the record-of-rights.
- 104G. Appeal to, and revision by, superior Revenue authorities.
- 104H. Jurisdiction of Civil Courts in matters relating to rent.
- 104J. Presumptions as to rents settled under sections 104A to 104G.

Part III.—Settlement of rents and decision of disputes in cases where a settlement of land-revenue is not being or is not about to be made.

SECTION.

- 105. Settlement of rents by Revenue-officer in cases where a settlement of land revenue is not being or is not about to be made.
- 105A. Decision of questions arising during the course of settlement of rents under this Part.
- 105B. Court-fees for raising an issue under section 105A.
- 105C. Costs not to be awarded ordinarily in proceedings under section 105 by Revenue-officer.
- 106. Institution of suit before a Revenue-officer.
- 107. Procedure to be adopted by Revenue-officer.
- 108. Revision by Revenue-officer.
- 108A. [*Transferred as section 115B.*]
- 109. Bar to jurisdiction of Civil Courts.
- 109A. [*Transferred as section 115C.*]

Part IV.—Supplemental provisions.

- 109B. Power of Revenue-officer to presume that agreements or compromises are lawful.
- 109C. Power to Revenue-officer to settle rents on agreement.
- 109D. Note of decision on record.
 - 110. Date from which settled rent takes effect.
 - 111. Stay of proceedings in Civil Court during preparation of record-of-rights.
- 111A. Limitation of jurisdiction of Civil Courts in matters, other than rent relating to record-of-rights.
- 111B. Stay of suits in which certain issues arise.
 - 112. Power to authorize special settlement in special cases.
 - 113. Period for which rents as settled are to remain unaltered.
 - 114. Expenses of proceedings under Chapter.
 - 115. Presumption as to fixity of rent not to apply where record-of-rights has been prepared.
- 115A. Demarcation of village boundaries.
- 115B. Correction by Revenue-officer of mistakes in record-of-rights.
- 115C. Appeals from decisions of Revenue-officers.

CHAPTER XI.

NON-ACCRUAL OF OCCUPANCY AND NON-OCCUPANCY RIGHTS, AND
RECORD OF PROPRIETOR'S PRIVATE LANDS.

- 116. Saving as to certain lands.
- 117. Power for Government to order survey and record of proprietor's private lands.
- 118. Power for Revenue-officer to record private land on application of proprietor or tenant.
- 119. Procedure for recording private land.
- 120. Rules for determination of proprietor's private land.

[CHAPTER XII.]

[Distraint.]

SECTION.

- | | | |
|------|---|-------------|
| 121. | } | (Repealed.) |
| 122. | | |
| 123. | | |
| 124. | | |
| 125. | | |
| 126. | | |
| 127. | | |
| 128. | | |
| 129. | | |
| 130. | | |
| 131. | | |
| 132. | | |
| 133. | | |
| 134. | | |
| 135. | | |
| 136. | | |
| 137. | | |
| 138. | | |
| 139. | | |
| 140. | | |
| 141. | | |
| 142. | | |

CHAPTER XIII.

JUDICIAL PROCEDURE.

143. Power to modify Civil Procedure Code in its application to landlord and tenant suits.
144. Jurisdiction in proceedings under Act.
145. *Naibs* or *gumashtas* to be recognized agents.
146. Special register of suits.
- 146A. Joint and several liability for rent of co-sharer tenants in a tenure or holding.
- 146B. Procedure in rent suit against co-sharer tenants in a tenure or holding.
147. Successive rent suits.
- 147A. Compromise of suits between landlord and tenant.
- 147B. Regard to be had by Civil Courts to entries in record-of-rights.
148. Procedure in rent suits.
- 148A. Power to co-sharer landlord to sue for rent in respect of his share in a tenure or holding against the tenure or holding on making remaining co-sharers parties.
149. Payment into Court of money admitted to be due to third person.
150. Payment into Court of money admitted to be due to landlord.
151. Provisions as to payment of portion of money.
152. Court to grant receipt.
153. Appeals in rent suits.
- 153A. Deposit on application to set aside *ex parte* decree.
154. Date from which decree for enhancement takes effect.
155. Relief against forfeitures.
156. Rights of ejected *rai-yats* in respect of crops and land prepared for sowing.
157. Power for Court to fix fair rent as alternative to ejection.
158. Application to determine incidents of tenancy.

CHAPTER XIII.

SUMMARY PROCEDURE FOR THE RECOVERY OF RENTS UNDER THE
BENGAL PUBLIC DEMANDS RECOVERY ACT, 1913.

SECTION.

- 158A. Recovery of arrears of rent under the certificate procedure in certain areas.
- 158AA. Recovery of arrears under the certificate procedure in certain other cases.
- 158AAA. Passing of tenure or holding sold in execution of certificate.

CHAPTER XIV.

SALE FOR ARREARS UNDER DECREE.

- 158B. (*Repealed.*)
- 159. General powers of purchaser as to avoidance of incumbrances.
- 160. Protected interests.
- 161. Meaning of "incumbrance" and "registered and notified incumbrance."
- 162. Application for sale of tenure or holding.
- 163. Combined order of attachment and proclamation of sale to be issued.
- 164. Sale of tenure or holding subject to registered and notified incumbrances, and effect thereof.
- 165. Sale of tenure or holding with power to avoid all incumbrances, and effect thereof.
- 166. Sale of occupancy-holding with power to avoid all incumbrances, and effect thereof.
- 167. Procedure for annulling incumbrances under sections 164, 165 or 166.
- 168. Power to direct that occupancy-holdings be dealt with under sections 159 to 167 as tenures.
- 169. Rules for disposal of the sale-proceeds.
- 170. Tenure or holding to be released from attachment only on payment into Court of amount of decree, with costs, or on confession of satisfaction by decree-holder.
- 171. Amount paid into Court to prevent sale to be in certain cases a mortgage-debt on the tenure or holding.
- 172. Inferior tenant paying into Court may deduct from rent.
- 173. Decree-holder may bid at sale; judgment-debtor may not.
- 174. Application to set aside sale.
- 174A. Sale when to become absolute or be set aside, and return of purchase-money in certain cases.
- 175. (*Repealed.*)
- 176. Notification of incumbrances to landlord.
- 177. Power to create incumbrances not extended.

CHAPTER XV.

CONTRACT AND CUSTOM.

- 178. Restrictions on exclusion of Act by agreement.
- 179. Permanent *mukarrari* leases.
- 180. *Utbandi*, *char* and *diara* lands.
- 180A. Fixing of uniform annual money rent in respect of *utbandi* lands.
- 180B. Lands in respect of which a uniform annual money rent has been fixed under section 180A to cease to be *utbandi* lands.

SECTION.

- 180C. Period for which rent fixed under section 180A to remain unaltered.
 181. Saving as to service-tenures.
 182. Homesteads.
 183. Saving of custom.

CHAPTER XVI.

LIMITATION.

184. Limitation in suits, appeals and applications in Schedule III.
 185. Portions of the Indian Limitation Act not applicable to such suits, etc., mentioned in Schedule III.

CHAPTER XVII.

SUPPLEMENTAL.

Penalties.

186. Penalties for illegal interference with produce.
Damages for denial of landlord's title.
 186A. Damages for denial of landlord's title.
Agents and representatives of landlords.
 187. Power for landlord to act through agent.
 188. Action to be taken collectively by co-sharer landlords or by their common agents except in certain cases.
 188A. (*Repealed.*)

Rules under Act.

189. Power to make rules regarding procedure, powers of officers and services of notices.
 190. Procedure for making, publication and confirmation of rules.
Provisions as to temporarily-settled districts.
 191. Settlement of rent of land held in a district not permanently settled.
 192. (*Amalgamated with section 191.*)

Rights of pasturage, etc.

193. Rights of pasturage, forest rights, etc.
Saving for conditions binding on landlords.
 194. Tenant not enabled by Act to violate conditions binding on landlord.
Savings for special enactments.
 195. Savings for special enactments.

Protection for certain acts.

- 195A. Protection in certain cases for acts done.
 196. (*Repealed.*)

SCHEDULE I.—REPEAL OF ENACTMENTS.

SCHEDULE II.—PARTICULARS OF RECEIPT AND OF STATEMENT OF ACCOUNT.

SCHEDULE III.—LIMITATION.