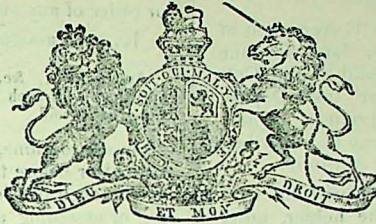


THE



Bombay Government Gazette.

Published by Authority.

THURSDAY, 9TH MARCH 1871.

Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 3rd March 1871, and was referred to a Select Committee with instructions to make their report thereon in two months:—

Bill No. 7 of 1871.

A Bill to consolidate and amend the law relating to pensions and grants by Government of money or land-revenue.

For the purpose of consolidating and amending the law relating to pensions and grants by Government of money or land-revenue; It is hereby enacted as follows:—

Preamble.

I.—Preliminary.

1. This Act may be called, 'The Pensions' Act, 1871':

Short title.

Extent of Act.

It extends to the whole of British India;

And it shall come into force at the expiration of one month from the passing thereof.

2. The enactments mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column of the said schedule.

Enactments repealed.

But all rules in regard to the payment of pensions and the identification of the persons entitled to receive them, made under any such enactment, shall be deemed to have been made under this Act so far as they are consistent herewith.

Saving of rules.

II.—Rights to Pensions.

3. No Civil Court shall take cognizance of suits to enforce claims to any pensions, or grants of money, or assignments of land-revenue, conferred or made by the British or any former Government.

4. Nothing in section three applies to pensions heretofore granted by Government, either wholly or in part, as an indemnity for loss sustained by the resumption by a Native Government of lands held under sanads purporting to confer a right in perpetuity. Such pensions shall not be liable to resumption on the death of the recipient, but every such pension shall be capable of alienation and descent, and may be sued for and recovered in the same manner as any other property.

5. All persons claiming pensions or grants by Government of money or land-revenue shall prefer their claims to the Collector of the District, or Deputy Commissioner, or other officer authorized in this behalf by the

Claims to be made to Collector.

Collector of the District, or Deputy Commissioner, or other officer authorized in this behalf by the

Local Government, and such officer shall dispose of such claims in accordance with such rules as the Chief Revenue Authority may, subject to the general control of the Local Government, from time to time prescribe in this behalf.

III.—Mode of Payment.

6. All pensions or grants by Government of money or land revenue shall be paid by the Collector, or the Deputy Commissioner, or other authorized officer, subject to such rules as may from time to time be prescribed by the Chief Controlling Revenue Authority.

7. The Local Government may, with the consent of the holder, order the whole or any part of his pension or grants by Government of money or land-revenue to be commuted for a lump sum on such terms as may seem fit.

8. On the application of any person entitled to receive a pension or grants by Government of money or land-revenue, the place of payment may, if the Chief Controlling Authority thinks fit, be altered.

IV.—Miscellaneous.

9. The reduced pay or pension, however called, of any invalid officer, soldier, sailor, or retainer of the army or navy, in the military or naval service of Her Majesty or of the East India Company,

and also any monthly or yearly pensions, or pecuniary allowance to any person, in consideration of past services and present infirmities, or old age, granted by authority of the Governor General in Council, or of the Local Government,

and also the pension of any out-pensioner of Chelsea or Greenwich Hospital, granted by authority of the Commissioners of Chelsea or Greenwich Hospital respectively,

and also all money due or to become due on account of any such pension or allowance, shall be exempt from seizure, attachment, or sequestration by process of any Court in British India, at the instance of a creditor, for any demand against the pensioner, or in satisfaction of a decree or order of any such Court.

10. All assignments, agreements, orders, sales, and securities of every kind made by the person entitled to any pension, pay, or allowance mentioned in section nine, in respect of any money not payable at or before the making thereof, on account of any such pension, pay, or allowance, or for giving or assigning any future interest therein, are null and void.

11. Whoever proves to the satisfaction of the Local Government that any pension is fraudulently or unduly received by the person enjoying the benefit thereof, shall be entitled to a reward equivalent to the amount of such pension for the period of six months.

12. The Chief Controlling Revenue Authority may, with the consent of the Local Government, from time to time make rules consistent with this Act respecting all or any of the following matters:—

- (1) the place and times, and the person at which and to whom any pension shall be paid.
 - (2) inquiries into the identity of claimants,
 - (3) records to be kept on the subject of pensions,
 - (4) transmission of such records,
 - (5) correction of such records,
 - (6) delivery of certificates to pensioners,
 - (7) registers of such certificates,
- and generally for the guidance of officers under this Act.

All such rules shall be published in the local Official Gazette, and shall thereupon have the force of law.

SCHEDULE.

I.—BENGAL REGULATIONS.

Number and year.	Title or Subject.	Extent of repeal.
XXIV of 1793	A Regulation for re-enacting, with Modifications, the rules passed by the Governor General in Council on the 10th June 1791, for determining the Continuance or Discontinuance of the Pensions heretofore paid by the Proprietors and Farmers of land, but included in the Jumma or Revenue payable to Government at the decennial Settlement, and also of the Pensions heretofore paid from the Sayer abolished.	The whole.
XXXIV. of 1795	A Regulation for re-enacting, with Modifications, the Rules respecting the Pensions payable from the Government and Moolky Treasuries in the Province of Benares.	The whole.
XXIV. of 1803	A Regulation for trying the Validity of Titles of Persons receiving, or claiming a right to receive, Pensions, under the Denominations of Saleanah, Rozenah, or any other Description of Grant, in the Provinces ceded by the Nawab Vizier to the Honourable the English East India Company.	The whole.
I. of 1804	A Regulation for the better Management of the Invalid Jagheerdar Establishments, and of the Invalid Pension Establishments.	Sections twenty-three to twenty-six inclusive.

SCHEDULE—continued.

I.—BENGAL REGULATIONS—continued.

Number and year.	Title or Subject.	Extent of repeal.
XII. of 1805	A Regulation for the Settlement and Collection of the public Revenue in the Zillah of Cuttack, including the Pergunnahs of Puttespore, Kummardichour, and Bograe, at present included in the Zillah of Midnapore.	Section thirty.
XXII. of 1806	A Regulation for modifying the Rules hitherto observed in the admission and Payment of Claims to Pensions.	The whole.
II. of 1811	A Regulation for amending the existing Rules for the Support of Invalid Native Commissioned and Non-Commissioned Officers.	The whole.
XI. of 1813	A Regulation for modifying some of the Rules before established respecting the Payment of Pensions, and for preventing the Abuses committed in the receipt of Pensions.	The whole.
VI. of 1817	A Regulation to explain the Purport and Intent of the Provision contained in Section II., Regulation XXIV. 1803.	The whole.

II.—MADRAS REGULATIONS.

I. of 1803	A Regulation for defining the Duties of the Board of Revenue, and for determining the Extent of the Powers vested in the Board of Revenue.	Section forty-three.
II. of 1803	A Regulation for describing and determining the Conduct to be observed by Collectors in certain cases.	Section thirty.
IV. of 1831	A Regulation for better securing to the Grantees Personal or hereditary Grants of Money or of Land Revenue, conferred by the Government in consideration of Services rendered to the State, or in lieu of resumed Offices or Privileges, or of Zemindaries or Pallams forfeited or held under Attachment or Management by the Officers of Government, or as Yeomials or Pensions.	The whole.

III.—ACTS.

XXXI. of 1836	Government Grants	The whole.
XXXIII. of 1838	Exemption of grants from attachment	The whole.
VI. of 1849	An Act for securing Military and Naval Pensions and Superannuation Allowances.	The whole.

STATEMENT OF OBJECTS AND REASONS.

The law relating to pensions is at present distributed over nine Regulations of the Bengal, three Regulations of the Madras, and two Regulations of the Bombay, Codes, as well as three Acts of the Governor General in Council.

The main provision of the law as expressed in the Bengal Regulations XXIV. 1793, section 17, XXXIV. 1795, section 14, XXIV. 1803, section 16, and VI. 1817, and the Madras Regulation IV. 1831, section 2, is the reservation to Government of the right to determine on all claims to the continuance of pensions, and the exclusion of the jurisdiction of the ordinary Courts of judicature in regard to such claims.

In the Bombay Presidency, under the operation of Regulations XXIX. 1827, and VII. 1830, the Civil Courts are barred from the cognizance of suits to enforce such claims throughout the Dekhan, Khandeish, and the South Mahratta Country.

The Bengal Regulations, though expressly applicable only to Bengal and the North-Western Provinces, are practically in force throughout the more

recently acquired provinces; hence the law as above described applies to all India, except a portion of the Bombay Presidency.

Within this excepted country the Civil Courts have in more than one instance assumed jurisdiction in such cases.

The principle on which that jurisdiction is elsewhere disallowed is founded on perfectly equitable considerations, and is therefore fit for uniform application. It is in effect the assertion of the right of the State to reserve to itself the power of granting or withholding at pleasure concessions which are made gratuitously and without consideration.

The object of the proposed legislation, therefore, is (first) to consolidate the existing law, excluding all those provisions which are either obsolete or ill adapted for enactment in detail; and (second) to extend the law so re-enacted to the whole of British India.

(Signed) F. R. COCKERELL.

27th February 1871.

WHITLEY STOKES,
Secretary to the Government of India.