

Tenancy Rules, 1955
Chapters VI-VIII
CHAPTER VI

Maintenance of record-of-rights under section 143 of the

S A T S A Act.

22. **Duties of Tahsildars:—** (1) The Tahsildar or Patwari shall be primarily responsible for reporting promptly to the Revenue-officer immediately superior to him apparent clerical mistakes in the record-of-rights, all changes in the ownership of land, all cases of alluvion, diluvion and reformation of land and the particulars of unsettled lands, in his area. He shall also promptly bring to the notice of the Revenue-officer all cases of contravention of the provisions of section 90 and 93 and cases of extinguishment of the interest of tenants under clauses (a), (c) and (d) of Sub-section (1) of section 92 or under the second proviso to sub-section (4) of section 90 of the Act.
- (2) In the cases of succession, intestate or testamentary, the report shall contain the names and addresses of all heirs and their respective shares and nature of interests according to the law of inheritance applicable to the deceased or according to the terms of the testament, as the case may be, and also the description of the holding or holdings they have inherited. The report shall also state if any area of land inherited by any heir is acquirable under section 91 of the Act.
- (3) In the case of alluvion, diluvion and reformation of land, the report shall state its nature, area and location and in the case of reformation or accretion, also the Khatian number of the holding to which it relates and the area which the raiyat concerned is entitled to possess under the provisions of section 86 or section 87 of the Act, as the case may be.
- (4) In the case of apparent clerical mistakes in the record-of-rights, the report shall state the mouza and Khatian number of the holding to which such mistakes relate.
23. **Duties of Revenue Officers:—** (1) The Revenue-officer shall, if he is vested with necessary powers in this behalf under

the Act, incorporate, and, if he is not vested with such powers, send up proposals to the officer vested with such powers for incorporating, necessary changes in the record-of-rights.

- (a) when mutation of names is allowed as a result of inheritance either on the report of the Tahsilder under rule 22 or on the application of the heirs or otherwise ;
- (b) when mutation of names is made as a result of transfer on receipt of the notice of transfer under section 89 of the Act ;
- (c) when the rent of a holding is abated under sub-section (1) of section 86 of the Act, or on account of abandonment or acquisition of land ;
- (d) when any land vests in or is at the disposal of, the Provincial Government under the first proviso to sub-section (2) of section 86, sub-section (2) of section 87, the second proviso to sub-section (4) or sub-section (5) of section 90, sub-section (2) of section 92, sub-section (2) of section 93 or clause (b) of sub-section (8) of section 97 of the Act ;
- (e) when new settlements of lands are made ;
- (f) when any raiyat is entitled to repossess or hold any land under sub-section (2) of section 86 or sub-section (1) of section 87 of the Act ;
- (g) when orders are passed by the Court under sub-section (7) of section 96 of the Act on applications for pre-emption ;
- (h) when parcels of land are amalgamated under section 116 or a holding is subdivided under section 117 or the interest of a cosharer tenant in a holding is transferred under section 118 of the Act ;
- (i) when a scheme for consolidation of holdings is finally confirmed under section 125 of the Act ; or
- (j) when for any other reason correction of the record-of-rights become necessary.

(2) Before sending any report under this rule, the Revenue-officer shall satisfy himself about its correctness and for this purpose he may make such enquiries and take such evidence as he thinks fit.

(3) The Revenue-officer shall, either on application or on receipt of a report under sub-rule (1) of rule 22, for the correction of apparent clerical mistakes in the record-of-rights, after consulting the previous settlement records, preliminary rent-rolls, Collector's copy of record-of-rights and Register II, and making such other enquiries as he considers necessary, direct correction of such clerical mistakes, and the record-of-rights maintained by the Collector or the Subdivisional Officer or in the Tahsil Office and Register II shall accordingly be corrected and the corrected copies of the record-of-rights shall be given to the parties concerned :

(4) The Revenue-officer shall, either on application or on receipt of a report under clause (j) of sub-rule (1), for the correction of an entry that has been procured by fraud in the record-of-rights after final publication thereof, after consulting the previous settlement records, preliminary rent-rolls, draft record-of-rights, subdivisional and tahsil copies of records modified under section 46 of the Act, holdingwari rent-rolls and Register II, and making such other enquiries as he considers necessary, direct excision of the fraudulent entry, and his act in doing so being a ministerial act, shall not be open to appeal. At the same time the Revenue-officer shall make the correct entry, leaving a note against the excised entry that is fraudulent, and make in the record a reference to a proceeding in which the reasons for excision have been stated. He shall also direct similar correction in the record-of-rights maintained in the subdivisional record room and the tahsil office and shall supply corrected copies of the record-of-rights to the parties concerned.

24. **Duties of officers entrusted with the work of maintaining the record-of-rights:—** (1) Subject to the provision of sub-rule (2) the officer entrusted with the work of maintaining the record-of-rights shall promptly incorporate therein all changes reported to him under rule 23.

(2) Before incorporating any change in the record-of-rights, the officer shall carefully examine the report on the basis of which the change is to be made and shall satisfy himself about its correctness and for that purpose, he shall follow such procedure

and take such action as may be directed by the Board of Revenue.

(3) Every change made by the officer in the record-of-rights shall be signed by him and dated and reference of the document on the basis of which the change is made shall be given against it.

(4) When any land vests in or come to the possession of the Provincial Government, it shall be recorded in the Khas Khatian and if such land formed the whole or a part of an existing holding, the Khatian of that holding shall be cancelled or modified, as the case may be.

(5) When any settlement of land is made, a new Khatian shall be opened, in the name of the new tenant or if he has a Khatian covering the same ownership already, necessary addition or alteration shall be made in such Khatian and he shall be furnished with a certified copy of the new Khatian or of the Khatian so changed, as the case may be, free of cost.

25. **Abatement of rent:**— When any abatement of rent of any holding is necessary on account of abandonment, escheat or any other cause, the authority competent to grant such abatement shall, where no other provision of law or rule applies, be guided by the principles laid down in the rule made under sub-section (1) of section 86 of the Act in the matter of determining the amount by which the rent shall be abated.

CHAPTER VII.

S&T

Revision of record-of-rights under section 144 of the Act.

26. **Particulars to be recorded:**— When an order is made under subsection (1) of section 144 of the Act. for the revision of record-of-rights in respect of a district, part of district or local area, the particulars to be recorded shall include, either without or in addition to other particulars, some or all of the following, namely :—

- (a) the name, father's name and address of each tenant or occupant;
- (b) the class to which each such tenant or occupant belongs ;
- (c) the situation, class, quantity and one or more of the boundaries of the land held by each tenant or occupant ;
- (d) the rent payable at the time the record-of-rights is revised ;

- (e) the amount payable in respect of any rights of pasturage, forest-rights, rights over fisheries and the like at the time the record-of-rights is being revised, the conditions and incidents appertaining to such rights, and if the amount is a gradually increasing one, the time at which and the amount by which, it increases ;
- (f) the mode in which the rent has been fixed whether by contract, by order of a Court, or otherwise ;
- (g) if the rent is a gradually increasing one, the time at which and the steps by which it increases ;
- (h) the rights and obligations of each tenant in respect of—
 - (i) the use by tenants, of water for agricultural purposes, whether obtained from a river, Jhil, tank or well or any other source of supply, and
 - (ii) the repair and maintenance of appliances for securing a supply of water for the cultivation of the land held by each tenant or for prevention of the onrush of flood-water, whether or not such appliances be situated within the boundaries of such land ;
- (i) the special conditions and incidents, if any, of the tenancy ;
- (j) any right of way or other easement attaching to the land for which a record-of-rights is being revised.

27. **Stages of the work:—** The work shall ordinarily consist of the following stages, namely:—

- (i) traverse survey ;
- (ii) cadastral survey ;
- (iii) erection of boundary marks ;
- (iv) preliminary record-writing (Khanapuri) ;
- (v) local explanation (Bujharat) ;
- (vi) attestation ;
- (vii) publication of draft record ;
- (viii) disposal of objections ;
- (ix) filing of appeals and disposal there of ;
- (x) preparation and publication of final record.

Provided that all or any of the first six stages may be omitted, or a new stage added, according to the circumstances of the case, with the approval of the Director of Land Records and Surveys.

27A. Cadastral Survey:— (1) In the course of proceedings under section 144, a large scale map showing therein roads, rivers, railways, homestead, fields and other physical features of the country shall be prepared for each village, as a unit of survey and record.

(2) When the area contained within the boundaries of a village map of any previous survey is unsuitable as a unit of survey and record, the Revenue-Officer having the additional designation of Settlement Officer, shall, after ascertaining, as far as possible, the opinions of the local people submit his proposal for the determination of the area to be adopted as a unit of survey and record to the Board of Revenue, through the Officer to whom he is subordinate. The unit shall, if sanctioned by the Board of Revenue, be declared and adopted as a village for the purpose of preparation and revision of record-of-rights.

28. Procedure of work up to Attestation:— The work of the stages up to attestation, as mentioned in rule 27, shall be completed in accordance with the Technical Rules and Instructions of the Settlement Department, as modified, from time to time, by the Director of Land Records and Surveys and under such other instructions as may be issued in this behalf by the Director of Land Records and Surveys or by the Revenue-officer appointed with the additional designation of Settlement Officer in any district or part of a district or local area.

29. Publication of draft record-of-rights:— After completion of attestation the Revenue-officer shall publish the draft record-of-rights by placing it, for public inspection free-of-charge during a period of not less than one month, at such convenient place as he may determine.

A proclamation shall previously be published in each village informing the maliks, tenants and local representative of the Deputy Commissioner of the place at which the draft record-of-rights of that village will be open to such inspection and the last date of filing objections. Notwithstanding anything contained in the proclamation, the Revenue-officer may extend the period during which the draft record-of-rights will be open to inspection and during which objection under rule 30 may be filed.

30. **Objection:**— Blank forms of objection shall be supplied free-of-charge, and all objections shall, as far as practicable, be made in such forms. Along with the original objection, the objector shall file a copy or copies of the same for service on all other persons who, in the opinion of the Revenue-officer are materially interested in the case. The Revenue-officer shall issue notices informing the objector and all other persons so interested of the date and place fixed for the hearing of the objection and, with each notice to a person, other than the objector, he shall forward a copy of the objection. Objection regarding the ownership or possession of land or of any interest in land shall be decided summarily by the Revenue-officer. The record shall contain a brief summary of the evidence taken and an abstract of the reasons for the decision. Objections shall not be disposed of in the absence of any of the parties materially interested or their representatives, unless the Revenue-officer be satisfied, for reasons to be recorded in writing, that the notice was duly served on the person concerned.
31. **Appeal:**— (1) Any person aggrieved by an order passed by the Revenue-officer on any objection made under rule 30 may appeal to the Revenue-officer appointed with the additional designation of Settlement Officer or to such Revenue-officer appointed with the additional designation of Assistant Settlement Officer as may be empowered by him in this behalf, within 30 days from the date of the order appealed against. Every such appeal shall be in writing and shall state the grounds on which the appeal is based and shall be accompanied by a certified copy of the order appealed against and a process fee in court fee stamps as specified below :
- (a) For each notice whether directed to one or more persons where such persons reside in the same Village — Rupee one and twenty five paisa ; and
 - (b) Where the notice is to be served in different villages, a separate fee shall be charged for service in each village at rates as in clause (a) above.
- (2) Before passing the final order on any such appeal, the Appellate officer shall give the parties an opportunity of being

heard and shall record in the proceedings an abstract of the reasons for his decision.

32. **Preparation of Final Records:**— When all objections under rule 30 and all appeals under rule 31 have been disposed of and when the draft record-of-rights has been corrected in accordance with the original and appellate orders on all objections, the Revenue-officer shall proceed to frame the final record-of-rights.

In cases, however, where operations under Chapter XIV of the Act have been undertaken and fair and equitable rents have been settled and the settlement rent-roll has been finally framed under sub-section (3) of section 109, the Revenue-officer shall, after the draft record-of-rights has been corrected in accordance with the original and appellate orders on all objections, incorporate in the draft record-of-rights the rent determined in respect of each holding or tenancy on the basis of such finally framed settlement rent-roll and then proceed to frame the final record-of-rights :

Provided that in case where the fair and equitable rent have not been so settled and the settlement rent-roll has been finally framed by the time the record-of-rights is ready for final publication, the Revenue-officer instead of withholding final publication of the record-of-rights, may finally frame and finally publish the same noting the existing rents therein without incorporating the fair and equitable rents settled under Chapter XIV of the Act.

The final records shall be prepared in conformity with the draft records corrected as above and shall consist of a series of Khatians prepared in forms which shall be generally similar to the forms used for the Khatians of the draft record-of-rights. The Khasra shall not form part of the final record-of-rights. The final record shall be printed or prepared in manuscript according to the direction as may be given by the Provincial Government, by general or special order.

33. **Publication of Final Records:**— The Revenue-officer shall publish the final record-of-rights by placing it, for public inspection, free of charge, during a period of not less than 30 days, at such convenient place as he may determine. A proclamation shall previously be published in each village

informing the Maliks and tenants and the Deputy Commissioner of the Place at which the final record-of-rights of that village will be open to public inspection and the period during which it will be open to such inspection.

34. **Certificate of final Publication:—** (1) When a record-of-rights has been finally published under rule 33, the Revenue-officer shall, within sixty days from the date of final publication, make a certificate stating the fact of such final publication and the date thereof and shall date and subscribe the same with his name and official title.
- (2) The Provincial Government may, by notification, in the official Gazette, declare, with regard to any specified area, that record-of-rights has been finally published for every village included in such area; and such notification shall be conclusive proof of such publication.
35. **Presumption as to the correctness of record-of-rights :--** (1) When a record-of-rights is finally published under rule 33, the publication shall be conclusive evidence that the record has been duly revised under section 144 of the Act.
- (2) Every entry in a record-of-rights finally published shall be evidence of the matter referred to in such entry, and shall be presumed to be correct until it is proved by evidence to be incorrect.

CHAPTER VIII.

Powers of Revenue-officers in Revising Record-of-Rights under section 144.

36. **Power vested in Revenue-officers:—** When a Revenue-officer is appointed for the purpose of revision of a record-of-rights under Chapter XVII of the Act within any district, part of a district or local area, he shall be appointed either with or without the additional designation of "Settlement Officer" or "Assistant Settlement Officer".

Every such Officer shall have :—

- (a) the power to take down evidence in his own hand in English language in proceedings held under the said Chapter, in which an appeal is allowed, in accordance with the procedure laid down in the Code of Civil Procedure, 1908, for the trial of suits ; and

(b) to enter upon any land included within the area in respect of which an order under section 144 has been made to Survey and demarcate and prepare a map of the same.

37. **Further powers vested in Assistant Settlement Officer under Bengal Act. V of 1875:**— A Revenue-officer appointed with additional designation of "Assistant Settlement Officer" shall have all the powers of an Assistant Superintendent of Survey and of a Deputy Collector under the Bengal Survey Act, 1875.

38. **Further Powers vested in Settlement Officer under Bengal Act.V of 1875:**—A Revenue-officer appointed with the additional designation of "Settlement Officer" shall have all the powers of Superintendent of Survey under the Bengal Survey Act, 1875.

39. **Further powers vested in Settlement and Assistant Settlement Officers:**—A Revenue-officer appointed with the additional designation of "Settlement Officer" or "Assistant Settlement Officer" shall have all powers exercisable by a Civil Court in the trial of suits under the Civil Procedure Code, 1908 (Act V. of 1908).

40. **Power of Settlement Officers to make over certain matters to Assistant Settlement Officers:**— A Revenue-officer appointed with the additional designation of "Settlement Officer" may, by general or special order, make over, for disposal to any Assistant Settlement Officer subordinate to him, proceeding relating to :—

(a) Objections under rule 30, and

(b) Appeals under rule 31.

41. **Power of Settlement Officer to withdraw and transfer cases:**— A Revenue-officer appointed with the additional designation of "Settlement Officer" may also withdraw from the file of any Assistant Settlement Officer or Revenue-officer subordinate to him any of the proceedings under Chapter XVII and may dispose of them himself or transfer them for disposal to any other Assistant Settlement Officer or Revenue-officer subordinate to him.

42. **Special Power of Revenue-officer appointed with the additional designation of Settlement officer:**— A

Revenue-officer appointed with the additional designation of "Settlement Officer" may, at any time before the publication of final record-of-rights, direct that any portion of the proceedings referred to in rules 28 to 32 in respect of any district, part of a district, or local area shall be cancelled and that the proceedings shall be taken up fresh from such stage as the may direct.

- 42A. **Correction of fraudulent entry before final Publication of record-of-rights:**— The Revenue-officer, with the additional designation of "Settlement Officer" shall, on receipt of an application or on receipt of an official report for the correction of an entry that has been procured by fraud in record-of-rights before final publication thereof, after consulting relevant records and making such other enquiries as he deems necessary, direct excision of the fraudulent entry and his act in doing so shall not be open to appeal. At the same time, the Revenue-officer shall make the correct entry after giving the parties concerned a hearing and recording his finding in a formal proceeding for the purpose of future reference.
- 42B. **Correction of obvious clerical errors before final publication of record-of-rights:**— The Revenue-Officer, with the additional designation of Settlement Officer, shall have inherent jurisdiction to correct obvious errors, e.g. arithmetical or clerical errors, before final publication of the record-of-rights. The Settlement Officer may delegate the said power to some other Revenue-officer, with the additional designation of Assistant Settlement Officer, subordinate to him.
43. **Power of Deputy Commissioner where no Special Settlement Officer is appointed:**— Where no Special Settlement Officer has been appointed for any district, the Deputy Commiissioner of that district may discharge all the functions of Revenue-officer under Chapter XVII of the Act and shall have all the powers of a Settlement Officer under rules 36, 38, 39, 40, 41, 42A and 42B.
44. **Powers vested in Director of Land Records and Surveys :**— In respect of all operations under Chapter XVII of the Act which have been placed under the administrative control of the Director of Land Records and Surveys, East Pakistan, he may discharge all the functions of a Revenue-officer under the said Chapter and shall have all the powers of a Settlement Officer under rules 36, 38, 39, 40, 41, 42, 42A and 42B.

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Correction of fraudulent entries

533. It has been ruled that where it is desired to correct an entry in the finally-published records that has been procured by fraud the Settlement Officer has an inherent right to order excision of the fraudulent entry, and his act in doing so is a ministerial act, not open to appeal. At the same time the Settlement Officer should make the correct entry, leaving a note against the excised entry that it is fraudulent, and either stating his reasons in the record or making in the record a reference to a proceeding in which those reasons have been stated, as may be more convenient.

Inherent jurisdiction of Settlement Officer to correct obvious errors

534. A Settlement Officer has inherent jurisdiction to correct obvious errors, e.g. arithmetical or clerical errors, in the finally-published records.

535. (a) The Act contains no provision enabling the record-of-rights to be corrected in accordance with the orders of a Civil Court. If a Settlement Officer or a Collector is made a party to a suit in which a prayer for such correction of record-of-rights is contained in the plaint, he should, in the course of its hearing, raise objection to that part of the plaint. In his written statement he should urge the want of jurisdiction on the part of the Civil Court to order any such alteration. Any order of a Civil Court, in a case in which the Government has been made a party purporting to order the correction of the record-of-rights is, however, binding on the Government unless it is set aside. Any such order should, therefore, be brought to the notice of the Government in order that, the question of moving the High Court to revise it, under section 115 of the Civil Procedure Code, may be considered.

(b) On the other hand every Civil Court trying a suit under section 106 or disposing of an appeal under section 109A, will communicate to the Collector of the district, a note of its final

decision in the case for incorporation in the final record-of-rights (High Courts Rules, Civil, Vol. I. Rule 39A).

536. There is no provision enabling the Collector to note orders under section 104H in the record, but the Civil Court will notify any orders passed under section 104H to the Collector of the district.
537. Whenever the Settlement Officer or in his absence the Collector desires a correction of the finally published map to make it agree with the record-of-rights, he should record a proceeding accompanied by a case map and send to Bengal Drawing Office a trace showing what modifications in the map are desired. The changes shown on these traces should then be incorporated by the Bengal Drawing Office on a blue print copy of the original map. When the Collector's stock of maps is exhausted, the corrected blue print will be vandyked and issued while a small trace of all badars will be pasted on the original to show that the new map issued is a corrected copy of the earlier map.
538. When a village is transferred wholly or in part from one jurisdiction unit to another so that the name of the police station or district printed in map is no longer correct, a slip giving the name of the jurisdiction unit with reference to the order sanctioning the transfer will be attached to the original map and to all copies of it. The officer-in-charge of the Bengal Drawing Office will send copies of the slip to the Collector to be attached to the record of the village and to all copies of the map in the settlement record room and in the Collectorate.