

THE OUDH SUB-SETTLEMENT ACT, 1866

ARRANGEMENT OF SECTIONS

SECTIONS.

1. Rules as to sub-settlements contained in the Schedule to have the force of law.
2. Repeal of inconsistent rules.
3. Short title.

SCHEDULE.

THE OUDH SUB-SETTLEMENT ACT, 1866

ACT NO. XXVI OF 1866.

PASSED BY THE GOVERNOR - GENERAL OF INDIA IN COUNCIL.
(Received the assent of the Governor General on the 12th October 1866.)

An Act to legalize the rules made by Chief Commissioner of Oudh for the better determination of certain claims of subordinate proprietors in that provinces.

Preamble. - WHEREAS rules have been made by the Chief Commissioner of Oudh for the better determination of certain claims by persons possessed of subordinate rights of property in the territories subject to his administration ; and whereas it is expedient that such rules should have the force of law ; It is hereby enacted as follows :-

1. Rules as to Sub-settlements contained in the Schedule to have the force of law. – The rules for determining the conditions under which persons possessed of subordinate rights of property in taluqas in the territories subject to the administration of the Chief Commissioner of Oudh shall be entitled to obtain a sub-settlement of lands, villages or sub-divisions thereof, which they held under Taluqdar on or before the thirteenth day of February 1856, and for determining the amounts payable to the Taluqdar by such subordinate proprietors, which rules were made by the said Chief Commissioner, sanctioned by the Governor General of India in Council, and published in the *Gazette of India* for September 1st, 1866, and which are re-published in the Schedule to this Act, are hereby declared to have the force of law.

2. Repeal of inconsistent rules. – So much of any Act, Regulation or Rule having the force of law, which is in operation in the said territories as may be inconsistent with or repugnant to the rules hereby legalized, shall cease to have effect in such territories.

3. Short title. – This Act may be called “The Oudh Sub-Settlement Act, 1866.”

ACT NO. XXVI OF 1866.

SCHEDULE

Rules regarding sub-settlements and other subordinate rights of property in Oudh.

1. The extension of the term of limitation for the hearing of claims to under-proprietary rights in land, makes of itself no alteration in the principles hitherto observed in the recognition of a right to sub-settlement.

2. When no rights are proved to have been exercised or enjoyed by an under-proprietor during the period of limitation, beyond the possession of certain lands as *seer* or *nankar*, no sub-settlement can be made ; but the claimant will be entitled, in accordance with the rules contained in the circular orders which have hitherto been in force in Oudh upon this subject, to the recognition of a proprietary right in such lands. To entitle a claimant to obtain a sub-settlement, he must show that he possesses an under-proprietary right in the lands of which the sub-settlement is claim, and that such right has been kept alive, over the whole area claim, with in the period of limitation. He must also show that he, either by himself or by some other person or persons from whom he has inherited, has, by virtue of his under-proprietary right, and not merely through privilege granted on account of service, or by favour of the Talookdar, held such land under contract (*Pucka*), with some degree of continuousness, since the village came into the talooka.

3. The words “some degree of continuousness” will be interpreted as follows :-

If the village was included in the talooka before the 13th February 1836, the lease must have been held for not less than twelve years between that date and the annexation of the province. If the village was included in the talooka after the 13th February 1836, but before 13th February 1844, the lease must have been held for not less than one year more than half the period between the time in which the village was so included and the annexation of the province. Further, the lease must, in all cases, have been held for not less than seven years during the term of limitation, unless the village was included for the first time in the talooka after the 13th February 1844, in which case the lease must have been held for not less than one year more than half of the period between the time in which the village was so included and the annexation of the province. Provided that, if, for any reason, the Talookdar was, for any period, dispossessed of the village, and the under-proprietor was dispossessed from the lease during the same period, the term of such dispossession shall not be reckoned against the under-proprietor. Provided also, that nothing in this rule will apply to any village which was included for the first time in the talooka after the 13th February 1844, and in which the under-proprietor has held no lease for any period under the Talookdar.

4. If an under-proprietor. Who is entitled to a sub-settlement, can show by documentary evidence that he had entered into an agreement with the Talookdar that he should hold, in perpetuity, the lease of the lands to the sub-settlement of which he is entitled, at a uniform (*istimraree*) rate of payment, and that such agreement has been acted on within the period of limitation,. He will not be liable to payment at an increased rate during the currency of the present or revised settlement. If, in consequence of any future re-adjustment of the Government demand, the former proportion between the respective shares of the profits derived from the land by the under-proprietor and the Talookdar should be altered, the

amount payable by the under-proprietor to the Talookdar will be liable to re-adjustment, so that the proportion between their respective shares of the profits may remain unaltered.

5. If an under-proprietor, entitled to sub-settlement, can show by documentary evidence that he had entered into an agreement with the Talookdar that he should hold the lease of the lands to the sub-settlement of which he is entitled, on payment of the Government demand imposed before the annexation of the province on such lands, with the addition only of certain dues to the Talookdar, or other charges, and such agreement has been acted upon within the period of limitation, such under-proprietor will in future be liable only for the payment to the Talookdar of the Government demand for the time being, with the addition of ten percent, in lieu of Talookdaree dues and other charges.

6. If an under-proprietor, entitled to sub-settlement, has held the lease of the lands to the sub-settlement of which he is entitled, under an agreement that he shall pay to the Talookdar a certain share or proportion of the profits or produce of such lands, and such agreement has been acted upon within the term of limitation, the under-proprietor will in future continue to be liable for the payment to the Talookdar of such share or proportion.

7. In all cases in which an under-proprietor is entitled to a sub-settlement other than those described in Rules 4 to 6, the amount payable by the under-proprietor to the Talookdar will be determined according to the following principles :-

1st.—The payments made by the under-proprietor to the Talookdar before annexation, will form the standard by which the present payments are to be regulated.

2nd. – In no case can the amount payable by the under-proprietor to the Talookdar, during the currency of settlement, exceed the gross rental of the village, less ten percent, in *seer* or *nankar* land.

3rd. In no case can the amount payable during the currency of the settlement by the under-proprietor to the Talookdar, be less than the amount of the revised Government demand, with the addition of ten per cent.

4th. – If the gross rental of the village before annexation and at the present time be approximately the same, the under-proprietor will pay to the Talookdar the same amount which he paid before annexation.

5th. – If the present gross rental of the village exceed or fall short of the former gross rental, the payment of the under-proprietor to the Talookdar will be adjusted according to the following rule, viz, as the former gross rental is to the former payment of the under-proprietor, so is the present gross rental to the present payment of the under-proprietor.

6th. – In determining the amount payable by the under-proprietor to the Talookdar under the two last preceding rules, the former gross rental and the former payment of the under-proprietor will be held to be the average amount of the gross rental, and the average amount of the former payments of the under-proprietor for the twelve years preceding annexation, or for such portion of that time as the under-proprietor held a lease of the village from the Talookdar or for such portion of that time as the necessary information may be obtained.

8. In any case in which the clear share of the profit to which the under-proprietor is entitled under the rules contained in the last preceding paragraph does not exceed twelve per cent of the gross rental, no sub-settlement shall be made. In this case, the under-proprietor will retain all *seer* and *nankar* land to which his right is established. If the profits derived from such land be less than one-tenth of the whole rental of the land to the sub-settlement of which the right was established, the Talookdar shall increase the amount of such land so that the total profit to the under-proprietor will possess, in the whole such land, a transferable and heritable right of property.

9. In any case in which an under-proprietor is entitled to a sub-settlement under the preceding rule, and in which the share of the gross rental which such under-proprietor is entitled to receive exceeds twelve per cent, but falls short of twenty-five per cent., such share will be increased so that it shall not be less than twenty-five per cent. of the gross rental. The cost of such increase will be borne half by the Government and half by the Talookdar. In this case, the cesses on account of roads, schools, &c., amounting to two and a half per cent. on the Gov-allowances to the Putwaree and Chowkeedar, will be payable by the under-proprietor.

10. When a former proprietor, who is not entitled to a sub-settlement, has retained with in the period of limitation, either by himself or by some other person from whom he has inherited, possession of land which by virtue of his proprietary right he held as *seer or nankar* when he was in proprietary possession, he will be deemed in respect of such land to be an under-proprietor, and will possess a heritable and transferable right of property therein, subject to the payment of such amount as may be due by him to the superior proprietor.

11. If, in any case, the founder of a *poorwa* or hamlet, who is unable to establish a right to sub-settlement, can show that, in consideration of having sounded such *poorwa* or hamlet he has held therein, within the period of limitation, possession of *seer or nankar* land, he will be recognized as an under-proprietor in such land, subject to the payment of such amount as may be due by him to the Talookdar. The amount of such payment will be determined according to the rules for determining the amount of the payments due by other under-proprietors on their *seer or nankar* lands.

12. Claims to proprietary and under-proprietary rights in *jagheers* will be treated according to the same rules which are applicable to similar claims in talookas.

13. Cases in which claims to under-proprietary rights have been disposed of otherwise than in accordance with rules will be open to revision, but this rule will not apply to cases disposed of by arbitration or by agreement of the parties.
