

N. W. P. AND OUDH MUNICIPALITIES ACT.

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ACT No. XV OF 1873.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the 21st
November 1873).*

An Act to make better provision for the appointment of Municipal Committees in the North-Western Provinces and Oudh, and for other purposes.

WHEREAS it is expedient to make better provision for the appointment of Municipal Committees in the North-Western Provinces and Oudh, and for the police, conservancy and local improvements, and for education, and for the levying of rates and taxes, in the places to which this Act may be extended; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The North-Western Provinces and Oudh Municipalities Act, 1873: "

It extends to the territories for the time being respectively under the government of the Lieutenant-Governor of the North-Western Provinces and under the administration of the Chief Commissioner of Oudh;

And it shall come into force at once.

2. Acts Nos. XVIII of 1864 (*to provide for the appointment of a Municipal Committee for the City of Lucknow*), XXII of 1865 (*to amend Act No. XVIII of 1864*), XV of 1867 (*to make better provision for the appointment of Municipal Committees in the Panjáb, and for other purposes*), and VI of 1868

(to

Preamble.

Short title.

Local extent.

Commence-
ment.

Repeal of
enactments.

(to make better provision for the appointment of Municipal Committees in the North-Western Provinces, and for other purposes) are repealed.

But all extensions and appointments made, and all limits defined, under any of the said Acts, shall be deemed to be respectively made and defined under this Act.

And all assessments, bye-laws, rules and regulations of any kind relating to matters provided for by this Act, which may heretofore have been made and approved by the Local Government, shall be deemed to have been made under this Act.

And all proceedings taken under any such assessment, bye-law, rule or regulation, shall be deemed to be as valid as if they had been taken under this Act.

Interpreta-
tion-clause.

3. In this Act, unless there be something repugnant in the subject or context—

“Committee.”

“Committee” means a Municipal Committee appointed under the provisions of this Act; and

“Municipality.”

“Municipality” means any town or towns to which this Act may be extended.

Power to
extend Act.

4. The Local Government may, by notification published in the local official Gazette, declare its intention to extend this Act, or any of its provisions, to any town or towns in the territories under such Government.

Any inhabitant of such town objecting to such extension may, within six weeks from the date of the said publication, send his objection in writing to the Secretary to the Local Government, and the Local Government shall take such objection into consideration.

When six weeks from the said publication have expired, the Local Government, if no such objections have been sent as aforesaid, or (where such objections have been so sent in) if, in its opinion, they are insufficient, may, by like notification, effect the proposed extension.

Power to
define limits
of places to
which Act
extends.

5. For the purposes of this Act, the Local Government may from time to time, by notification in the local official Gazette, define the limits of any town,

town, and may include within the limits of such town any railway-station, village, building or land in the vicinity :

Provided that no cantonment shall, without the previous consent of the Governor General in Council, be included within the limits of any town for the purposes of this Act.

The Local Government may from time to time, by notification in the local official Gazette, declare to be united for the purposes of this Act any two or more towns, and may also declare by what name the municipality so formed shall be designated.

CHAPTER II.

APPOINTMENT OF MUNICIPAL COMMITTEES.

6. In any municipality to which this Act shall have been extended, the Local Government may appoint or direct to be appointed by election, for such period, not exceeding two years, as to it may seem fit, any number of the inhabitants of, or of persons possessing property or carrying on any trade or business in, such municipality, to be members of a Committee for carrying out the purposes of the Act.

Appointment of Committees.

The persons so appointed shall continue in office for two years, or until their successors shall have been appointed, and shall be eligible for re-appointment.

In cases where the Local Government directs the appointment to be by election, it may fix the time and manner of the election and the qualifications of the electors, and of the candidates for office, and, generally, may make such rules as it thinks fit for regulating the election.

7. The Local Government may, from time to time, remove any of the members of the Committee so appointed who desire to be discharged, or refuse or become incapable to act, or are convicted of an offence punishable under the Indian Penal Code with imprisonment for a term of not less than six months.

Removal of members.

8. The Local Government may also fill up vacancies occurring among the members of the Committee,

Addition of members.

and

and may, if it think fit, on the recommendation of the Committee, add to their number.

Every member so appointed shall have the same powers, and be subject to the same liabilities, and vacate his office, and be eligible for re-appointment, as if he had been originally appointed a member under section six.

Ex officio
members.

9. In addition to the members appointed as aforesaid, the Local Government shall have power to appoint *ex officio* members of the Committee for every place in which they exercise their offices and to which this Act shall have been extended :

Provided that the number of such *ex officio* members shall not be more than one-third of the total number of the Committee.

Appointment
of president
and vice-
president.

10. The Local Government may also appoint the president and vice-president, or either of them, of any Committee, or sanction the election by any Committee of one of their members as president or as vice-president.

Appointment
of secretary.

The Committee may appoint any one of their members or any other person to be their secretary.

Notification
of appoint-
ments and
removals of
members.

11. All appointments and removals of members of a Committee, made under this chapter, shall be notified in the local official Gazette.

CHAPTER III.

OFFICE AND MEETINGS OF COMMITTEES.

Committee to
have an office.

12. The Committee shall have an office, where they shall meet for the transaction of business at least once in every month.

Rules as to
meetings.

13. (a). The president, or, in his absence, the vice-president, shall take the chair at every meeting of the Committee. In the absence of both the president and vice-president, the members present may elect a chairman for the occasion.

(b). The meetings shall be either general or special.

(c). The president or vice-president may, whenever he thinks fit, and he shall, upon a requisition
made

made in writing by not less than one-fifth in number of the members, convene a meeting.

(d). Notice shall be given of every such meeting, and when the meeting is to be special, at least three days' notice thereof shall be given. Every notice shall state generally the nature of the business to be transacted at the meeting proposed to be called.

(e). The quorum necessary for the transaction of business at a general meeting shall be three.

(f). The quorum necessary for the transaction of business at a special meeting shall be one-half of the total number of the members of the Committee at the time of the meeting; and at least two-thirds of such quorum shall consist of non-official members.

(g). If within one hour from the time appointed for the meeting a quorum is not present, the meeting, if summoned by the president or vice-president, shall be dissolved.

In any other case it shall stand adjourned to the same day in the next week at the same time and place. And if at such adjourned meeting a quorum is not present, it shall be adjourned *sine die*.

(h). All business may be transacted at a general meeting which this Act does not require to be transacted at a special meeting.

(i). All questions which may come before the Committee at any meetings shall be decided by a majority of votes. Every member shall have one vote. In case of equality of votes, the chairman shall have a second or casting vote.

(j). Such decisions shall be recorded in a book kept for the purpose, and shall be published in some local English or vernacular newspaper (if any), or in such other manner as the Local Government may from time to time direct.

14. All correspondence between the Committee and the Local Government shall pass through the Commissioner of the Division.

Correspondence between Committee and Local Government.

The Commissioner of the Division shall be entitled to make such suggestions for the consideration of the Committee as he may deem fit; and the Committee

shall

shall furnish him with any information he may call for connected with the duties imposed upon them by this Act.

CHAPTER IV.

POWERS OF COMMITTEES.

Power to make assessments and levy taxes.

15. Subject to any general rules or special orders which the Governor General in Council may from time to time make in this behalf,

every Committee intending to impose taxes for the purposes of this Act, shall from time to time give notice of such intention, and shall in such notice define the persons or property within the municipality to be taxed for the purposes of this Act, and the amount or rate of the taxes to be imposed hereunder.

Any inhabitant of such town objecting to such notice may, within a fortnight from the date of the said notice, send his objection in writing to the chairman of the Committee, and the Committee shall take such objection into consideration and report their opinion thereon to the Local Government.

When a fortnight from the date of the said notice has expired, if no such objections have been sent as aforesaid, or (where such objections have been so sent in) if, in the opinion of the Committee, they are insufficient, the Committee may, with the previous sanction of the Local Government, to be notified in the official Gazette, define the persons or property to be taxed and the amount or rate of the taxes aforesaid, and may then at a special meeting impose such taxes accordingly.

The Committee may, at a special meeting, with the same sanction, cancel or vary any tax so imposed.

Specification of taxes.

16. Such taxes may (subject to the rules or orders last aforesaid) be all or any of the following :—

(a).—A tax on houses, buildings and lands according to the annual value thereof, not exceeding seven and a half per cent. of such value :

(b).—A

(b).—A tax on professions and trades :

(c).—Taxes on carriages, horses, mules, elephants, camels, bullocks and asses :

(d).—Tolls on carriages, carts, and animals entering the limits of the municipality :

(e).—An octroi on articles brought within the said limits for consumption or use therein : Provided that a list of such articles shall have been submitted to and approved by the Local Government : Provided also, that the Local Government may exempt from the octroi any such articles intended for consumption or use by any class of persons or animals.

17. If the Committee desire to impose any other or further tax than such as are hereinbefore specified, they may do so with the previous sanction of the Local Government and of the Governor General in Council, and subject to the provisions of section fifteen. Imposition of other taxes.

18. No tax shall be collected until the assessment thereof has been confirmed by such persons and in such manner as the Local Government appoints in this behalf. Taxes to be confirmed.

The Local Government may, from time to time, make rules as to the persons by whom, and the manner in which, any assessment of taxes under this Act shall be confirmed, and for the collection of such taxes. Rules for confirmation and collection of taxes.

The Local Government may, from time to time, repeal, alter or add to such rules.

19. No tax, or toll, or rate on property, made under this Act shall be invalid for defect of form ; and it shall be enough, in any such rate on property, or any assessment of value for the purpose of making such rate, if the property rated or assessed shall be so described as to be generally known, and it shall not be necessary to name the owner or occupier thereof. No tax or rate invalid for defect of form.

Bye-laws and Rules.

20. Every Committee may at a special meeting make bye-laws consistent with this Act, for regulating the time and place of their meeting, the conduct of their business, the division of duties among the members Power of Committees to make bye-laws.

members of the Committee, the salaries, appointment, suspension and removal of the officers and servants of the Committee, and other similar matters.

Enforcement of bye-laws and rules.

21. The Committee may appoint one or more of their number to carry out their resolutions, and to enforce the bye-laws and rules made, under the provisions of this Act, for the protection of the public health, or they may appoint a special officer for such purposes.

Power to make rules as to nuisances, hire of carriages, and registration of births, marriages and deaths.

22. The Committee may at a special meeting make rules

for declaring what acts or omissions within the municipality shall be considered to be public nuisances ;

for defining the cases, manner and times in and at which the officers of the Committee may enter upon private property for the detection and abatement of nuisances ;

for determining the rates of hire of carriages, carts and boats plying for hire within the limits of the municipality ;

for securing a proper registration of births, marriages and deaths,

and for carrying out all or any of the purposes of this Act.

The Committee may from time to time, at a special meeting, repeal, alter or add to such rules.

Confirmation of rules.

23. No rule, and no alteration or repeal of, or addition to, a rule, made under this Act, shall have effect until it has been confirmed by the Local Government.

Publication of rules and bye-laws.

24. All bye-laws and rules made under this Act, and all alterations and repeals of, and additions to, such bye-laws and rules shall be published for such length of time and in such manner as the Local Government from time to time directs.

Nuisances.

Power to prohibit repetition or continuance of nuisances.

25. Every Committee may enjoin within the limits of the municipality any person not to repeat or continue a public nuisance.

Every such injunction shall be deemed to have been made by a public servant.

26. Every

26. Every Committee which the Local Government authorizes in this behalf may, so long as such authorization continues, exercise the powers of a Magistrate of a District as described in section five hundred and twenty-one of the Code of Criminal Procedure, for the removal of nuisances; and in the exercise of such powers shall follow the procedure prescribed in sections five hundred and twenty-one to five hundred and twenty-eight (both inclusive) of the same Code.

Power to remove nuisances.

Purchase and Sale of Land.

27. Any Committee may at a special meeting, and with the previous sanction of the Local Government, purchase land for the purposes of this Act, and may at a like meeting and with the like sanction, sell any portion of such land which is not required for the purposes aforesaid, and convey the same in the names of the president and two of the members of the Committee.

Power to buy and sell land for purposes of Act.

The receipt of the president and any two members of the Committee for any monies paid to them upon any such sale, shall effectually discharge the persons paying the same therefrom, or from being concerned to see to the application thereof, or being accountable for the non-application or mis-application thereof; and the proceeds of any such sale shall be applied for the purposes of this Act.

Receipts.

Controlling Power of Local Government.

28. The Local Government may by order cancel, suspend or limit any of the acts, proceedings, bye-laws or rules of any Committee.

Cancellation and suspension of proceedings of Committee.

To every suit or other proceeding brought against a Committee, the Local Government shall be made a party.

Conduct of litigation.

29. The Local Government may also abolish any tax which shall have been sanctioned under the provisions hereinbefore contained, but not so as to entitle any person to a refund of money paid in respect of such tax.

Abolition of taxes.

CHAPTER V.

RIGHTS, DUTIES AND LIABILITIES OF COMMITTEES.

Municipal Fund.

Municipal
Fund.

30. All sums received by the Committee of any municipality to which this Act extends,

and all fines levied under this Act, or under Act No. V of 1861 (*for the regulation of Police*), on account of nuisances committed within the municipal limits,

and all receipts from property entrusted to and managed by the Committee,

shall constitute a fund which shall be called the Municipal Fund of such municipality, and shall, together with all property which may become vested in such Committee, be under their control, and shall be applied by them as trustees for the purposes of this Act.

Custody and
disbursement
of Municipal
Fund.

31. The Municipal Fund shall, as a rule, be kept in the Government Treasury of the District, or in the Bank (if any) to which the Government Treasury business shall have been made over.

But in places where there is no such Treasury or Bank, the said fund may, with the previous sanction of the Local Government, be deposited with any Banker, or person acting as a Banker, who has given such security for the safe custody and repayment on demand of the fund so deposited as the Local Government in each case thinks sufficient.

No disbursement of the Municipal Fund, or any part thereof shall be made except under the signature of the president or vice-president and one other member of the Committee.

Duties and
powers of
Committees.

32. Every Committee, so far as the Municipal Fund at their disposal will permit, shall, after providing out of such fund for a police establishment in the manner hereinafter mentioned, keep the public streets, roads, drains, tanks and water-courses of the municipality for which they are appointed, clean and in repair,

and

and may cause such streets and roads or any of them to be watered and lighted,

and may construct and provide for the management of poor-houses, dispensaries, market-places and other works of general utility,

and, generally, may do all acts and things necessary for the purposes of conservancy and general utility within their municipality.

The Committee may also make provision, by the establishment of new schools or the aiding of already existing schools, or otherwise, for the promotion of education in their municipality.

33. Every contract made on behalf of any Committee in respect of any sum exceeding twenty rupees, or in respect of any property exceeding twenty rupees in value, shall be in writing, and shall be signed by the president or vice-president and at least two other members of the Committee, of whom one shall be an *ex officio* member. Unless so executed, it shall not be binding on the Committee. Contracts.

Municipal Police.

34. Every Committee shall provide in the first place, from its funds, for the maintenance of the police establishment in the municipality. Provision for police.

The municipal police shall be appointed under such Act of the Governor General in Council as may be applicable to the town, and their number shall be fixed by the Committee in consultation with the Inspector General of Police, subject to the final decision of the Local Government.

35. Every officer of police in any municipality to which this Act shall have been extended, may take into custody without a warrant any person who, within his view, commits any of the offences mentioned in section thirty-four of Act No. V of 1861 (*for the regulation of Police*), and shall carry out the orders issued by the Committee for the prohibition and prevention of public nuisances, or nuisances declared to be such by any rule made under this Act. Police to aid in carrying out orders regarding nuisances.

Annual

Annual Reports and Accounts.

Annual reports and accounts to be submitted.

36. Every Committee shall annually, or oftener if directed by the Local Government to do so, submit reports of all works executed, or proceedings taken, by them under the authority of this Act, and also accounts of and relating to the Municipal Fund.

Such accounts shall be examined or audited in such manner as the Local Government from time to time prescribes.

The Committee shall also submit, at such time and in such form as may be directed by the Local Government, an estimate of their probable receipts for the financial year next following, with proposals for their expenditure.

An abstract of such estimate and proposals shall, on being so submitted, be published in such manner as the Local Government from time to time directs.

Rules as to cost and class of works.

37. The Local Government may, from time to time, make rules consistent with this Act, as to the cost and the class of works which the Committee may execute, and the Committee shall be legally bound to obey such rules.

Public Highways.

Right of Committee in public highways.

38. All public highways in any municipality in which this Act is in force, not specially reserved by Government, together with all erections thereon and all materials thereof, shall be vested in and belong to the Committee.

Land required for Public Purposes.

Acquisition of land for municipal purposes.

39. When any land within the limits of any municipality to which this Act is extended is required for the construction or improvement of a highway, for the promotion of the healthiness of the neighbourhood, or for any other public purpose, if the Committee cannot agree with the owner for the purchase thereof, the Local Government, on the recommendation of the Committee, may notify in the local official Gazette that such land is required under the provisions of the Land Acquisition Act, 1870 ;

and, on payment by the Committee of the compensation

pensation awarded under such Act, the land shall vest in them for the purposes of this Act.

Suits by and against Committees.

40. Every Committee shall sue and be sued in the name of their president.

Suits by and against Committees.

41. No member of a Committee shall be personally liable for any contract made or expense incurred by or on behalf of the Committee, but the funds from time to time in the hands of the Committee shall be liable for and chargeable with all contracts made in the manner above provided for.

Members not personally liable for contracts made by Committee.

42. Every member of a Committee shall be liable for any misapplication of money entrusted to the Committee to which he has been a party, or which happens through, or is facilitated by, the neglect of his duty; and he shall be liable to be sued for the same in such Court as the Local Government directs, as for money due to Government.

Liability of members for breach of trust.

43. No suit shall be brought against a Committee or any of their officers, or any person acting under their direction, for anything done under this Act, until the expiration of one month next after notice in writing has been delivered or left at the office of the Committee, or at the place of abode of such person, stating the cause of suit and the name and place of abode of the intending plaintiff.

Notice previous to suing Committee or their officers.

Unless such notice be proved, the Court shall find for the defendant.

Every such suit shall be commenced within three months next after the accrual of the cause of suit and not afterwards.

If any person to whom any such notice is given shall, before suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

CHAPTER VI.

PENALTIES AND PROSECUTIONS AND RECOVERY OF TAXES.

44. No member of a Committee, or servant of a Committee, shall be interested directly or indirectly in

Penalty on member or servant of

Committee being interested in contracts made with Committee.

in any contract made with the Committee, and if any such person be so interested, he shall thereby become incapable of continuing in office or in employment as such member or servant, and shall be liable to a fine of five hundred rupees :

Provided that no person shall by reason of being a shareholder in or member of any incorporated or registered Company be deemed interested in any contract entered into between such Company and the Committee.

Penalty for infringement of rules or non-payment of fines.

45. Whoever infringes any rule made by a Committee and confirmed as directed in this Act, shall be liable to a fine not exceeding fifty rupees, and in the case of a continuing infringement, to a fine not exceeding five rupees for every day after notice from the Committee of such infringement.

In default of payment of any fine imposed under this section, the defaulter shall, in the case of a continuing infringement, be liable to imprisonment for a term not exceeding one month; and in any other case, to imprisonment for a term not exceeding eight days.

Prosecutions.

46. Prosecutions under this Act for infringements of rules may be instituted before any Magistrate by the Committee or any person authorized by the Committee in this behalf.

Recovery of taxes.

47. All arrears of taxes imposed under this Act may be recovered as if they were fines, in the manner prescribed in section three hundred and seven of the Code of Criminal Procedure.