

ACT NO. IX OF 1889.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 29th March,
1889.)

An Act to authorise the imposition of a Patwari-rate in the North-Western Provinces and Oudh, and make certain provisions respecting Kanungos and Patwaris in those Provinces.

WHEREAS it is expedient to authorise the imposition of a patwari-rate in the North-Western Provinces and Oudh, and make certain provisions respecting kanungos and patwaris in those provinces; It is hereby enacted as follows:—

1. (1) This Act may be called the North-Western Provinces and Oudh Kanungos and Patwaris Act, 1889; and

Title and commencement.

(2) It shall come into force on the first day of April, 1889.

2. (1) The Kanungos and Patwaris Act, 1882, is hereby repealed;

Repeal.

(2) But all rules and appointments made and patwaris' circles formed under that Act or any enactment thereby repealed shall, so far as may be, be deemed to have been respectively made and formed under this Act.

3. (1) The remainder of this Act is divided into Parts as follows, namely:—

Division of Act into Parts, and local extent of the several Parts.

Part I.—North-Western Provinces.

Part II.—Oudh.

Part III.—North-Western Provinces and Oudh.

(2) Part I

(Part I.—*North-Western Provinces.*—Section 4.)

(2) Part I extends to the North-Western Provinces, Part II to Oudh, and Part III to the North-Western Provinces and Oudh.

PART I.

NORTH-WESTERN PROVINCES.

Definitions.

4. In this Part, unless there is something repugnant in the subject or context,—

(1) “land” means land used for agricultural purposes, or waste-land which is culturable :

(2) “estate” means the whole or any part of a village separately assessed to land-revenue or separately exempt from the payment thereof :

(3) “landlord” means the person responsible for the payment of the land-revenue, if any, assessed on an estate, whether as owner, mortgagee-in-possession or otherwise, and includes a muafidár, nazránadár or other person holding land whereof the revenue has, either wholly or in part, been released, compounded for, redeemed or assigned :

(4) “tenant”, used with reference to any land, means a tenant holding directly from the landlord of such land, and includes an under-proprietor of such land and a person bound to pay or deliver anything to such landlord in respect of the use or occupation of such land :

(5) “annual value” means,—

(1) where the settlement of the land-revenue of an estate is liable to periodical revision, double the amount of the land-revenue for the time being assessed on the estate, and

(2) where such settlement is not liable to such revision or where the land-revenue has been wholly or in part released, compounded

(Part I.—*North-Western Provinces.*—Section 5.)

pounded for, redeemed or assigned, double the amount which, if the settlement were liable to such revision, would be assessable as land-revenue :

(6) "rent" means whatever is payable to a landlord by a tenant on account of the use or occupation of land by the tenant: and

(7) "year" means the year commencing on the first day of April.

5. (1) Every estate shall be liable to the payment of such rate, not exceeding two per cent. on its annual value, as the Local Government imposes, for the purpose of defraying the salaries of patwaris and supervisor kanungos and any charges incurred for the supervision, maintenance and correction of patwaris' records and papers, including charges incurred in the preparation of village-maps. Patwari-rate.

(2) Such rate, hereinafter referred to as the patwari-rate, shall be payable by the landlord independently of, and in addition to, any land-revenue assessed on the estate and any rate or cess leviable under, or recognised by, the North-Western Provinces Local Rates Act, 1878, and any sum due on account of the patwari-rate shall be recoverable as if it were an arrear of land-revenue due in respect of the estate.

(3) The Local Government may, by notification in the official Gazette,—

(a) prescribe by what instalments, and at what times and places, the patwari-rate is to be paid, and by whom it is to be assessed and collected;

(b) fix the periods for which, in the cases referred to in clause (2) of the definition of the expression "annual value" in section 4, assessments to the patwari-rate are to have effect;

(c) determine

(Part I.—*North-Western Provinces.*—Sections 6-7.)

- (c) determine the cases in which, the conditions subject to which, and the officers to or by whom, orders with respect to the assessment or collection of the patwari-rate are to be appealable or subject to revision; and
- (d) exempt any portion of the North-Western Provinces from the operation of this Part, or exempt any estate from liability to pay the whole or any part of the patwari-rate, and cancel such exemption.

North-Western Provinces Patwari Fund.

6. (1) There shall be formed for the North-Western Provinces a fund, to be called the North-Western Provinces Patwari Fund, and there shall be placed to the credit thereof—

- (a) the proceeds of the patwari-rate, and
- (b) a contribution, to be made thereto each year, of such sum as the Local Government may allot from the general revenues at its disposal.

(2) The fund so formed shall be exclusively applicable to the purpose mentioned in sub-section (1) of the last foregoing section.

(3) An account of the fund shall be published annually by the Local Government in the official Gazette.

Payment of patwari-cess to payer of patwari-rate.

7. (1) The landlord of any land in respect of which the patwari-rate is for the time being payable shall be entitled to recover from the tenant of the land such a cess as is hereinafter mentioned, that is to say,—

- (a) if the rent of the tenant is payable in money, then a cess on such rent at the rate of two pies for every rupee thereof, or
- (b) if the land is held rent-free or rent in respect thereof is payable in kind or in service, then a cess equivalent as nearly as may be to one per cent. of the rent in money which would

on

(Part I.—*North-Western Provinces.*—Section 8.
Part II.—*Oudh.*—Section 9.)

on a reasonable assessment be payable in respect of the land.

(2) The cess in respect of such land as is described in clause (b) of sub-section (1) shall be computed, and be payable, in such manner as the Local Government may by general or special rules in this behalf prescribe.

8. Suits for the recovery of any sum on account of the patwari-rate, or for the recovery of the cess mentioned in the last foregoing section or the money-equivalent of such cess, and appeals and other proceedings arising out of such suits, shall be cognizable as if such suits had been included among the suits mentioned in section 93 of the North-Western Provinces Rent Act, 1881.

Recovery of rate or cess through Revenue Courts.

XII of 1881.

PART II.

OUDH.

9. In this Part, unless there is something repugnant in the subject or context,—

Definitions.

(1) "land" means land assessed to land-revenue and includes land of which the revenue has been wholly or in part released, compounded for, redeemed or assigned :

(2) "estate" means the whole or any part of a village separately assessed to land-revenue or separately exempt from the payment thereof :

(3) "landholder" means the person in receipt of the rent of any land, whether as owner, mortgagee-in-possession or otherwise, and includes an under-proprietor with whom a sub-settlement has been made of the whole village in which the land is situated :

(4) "tenant" means the person holding directly from the landholder, and includes an under-proprietor of land, not being an under-proprietor with whom a

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(Part II.—Oudh.—Sections 10-11.)

sub-settlement has been made of the whole village in which the land is situated :

(5) "annual value" means—

- (1) where the settlement of the land-revenue of an estate is liable to periodical revision, double the amount of the land-revenue assessed on the estate, and
- (2) where such settlement is not liable to periodical revision or where the land-revenue or a portion thereof has been released, compounded for, redeemed or assigned, double the amount which, if the settlement were liable to periodical revision, would, but for such non-liability, release, composition, redemption or assignment, be assessable as land-revenue :

(6) "rent" means whatever is payable to a landholder by a tenant on account of the use or occupation of land by the tenant : and

(7) "year" means the year commencing on the first day of April.

Power to alter number and limits of patwaris' circles.

10. (1) With the previous sanction of the Local Government, the Deputy Commissioner may from time to time alter the number of patwaris' circles in his district and the respective limits of such circles.

(2) A patwari shall be appointed to each circle whether the estates in such circle are assessed to land-revenue or not.

Nomination and appointment of patwaris to fill vacancies.

11. (1) Whenever a circle is without a patwari, the proprietors of such circle, or their representatives in interest, shall, in accordance with local custom, nominate a person to be the patwari of the circle, and he shall be appointed by the Deputy Commissioner or Assistant Commissioner.

(2) In case of disagreement as to the nominee the Deputy Commissioner or Assistant Commissioner shall ascertain

(Part II.—Oudh.—Section 12.)

ascertain the local custom, if any, and shall appoint the person nominated in accordance therewith.

(3) Where no such custom can be ascertained the Deputy Commissioner or Assistant Commissioner shall appoint the nominee of those proprietors who represent the largest amount of annual value in the circle, or of their representatives in interest.

(4) If an estate is held under direct management, or if the proprietor of an estate is under the superintendence of the Court of Wards, the Deputy Commissioner or Assistant Commissioner shall be deemed to be the proprietor for the purpose of nominating a patwari under this section.

(5) If the persons in whom the nomination is vested neglect to nominate a successor to the patwari within fifteen days from the occurrence of the vacancy, the Deputy Commissioner or Assistant Commissioner shall call on them by notice to make the nomination, and, if they fail to do so within fifteen days from the receipt of the notice, the Deputy Commissioner or Assistant Commissioner shall make the appointment.

(6) If the persons in whom the nomination is vested nominate a person not qualified to perform the duties of a patwari, or in the nomination neglect to follow the local custom, the Deputy Commissioner or Assistant Commissioner shall refuse to appoint the nominee, and, if no fit person is nominated within fifteen days from the date of the notification of such refusal, shall himself appoint a person to the vacant office.

12. The Local Government may make rules consistent with this Act—

- (a) regulating the appointment of supervisor kanungos and the qualifications, remuneration, suspension, dismissal, duties and supervision of kanungos and patwaris, and

(b) prescribing

Power to
make rules
respecting
kanungos
and patwaris.

(Part II.—Oudh.—Section 13.)

- (b) prescribing the fines which may be imposed on kanungos and patwaris for neglect of duty.

Patwari-rate.

13. (1) Every estate shall be liable to the payment of such rate, not exceeding one and a half per cent. on its annual value, as the Local Government imposes, for the purpose of defraying the salaries of patwaris and supervisor kanungos and any charges incurred for the supervision, maintenance and correction of patwaris' records and papers, including charges incurred in the preparation of village-maps.

(2) Such rate, hereinafter referred to as the patwari-rate, shall be payable by the landholder independently of, and in addition to, any land-revenue assessed on the estate and any rate or cess leviable under, or recognised by, the Oudh Local Rates Act, 1878, and any sum due on account of the patwari-rate shall be recoverable as if it were an arrear of land-revenue due in respect of the estate.

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(3) The Local Government may, by notification in the official Gazette,—

- (a) prescribe by what instalments, and at what times and places, the patwari-rate is to be paid, and by whom it is to be assessed and collected ;
- (b) fix the periods for which, in the cases referred to in clause (2) of the definition of the expression "annual value" in section 9, assessments to the patwari-rate are to have effect ;
- (c) determine the cases in which, the conditions subject to which, and the officers to or by whom, orders with respect to the assessment or collection of the patwari-rate are to be appealable or subject to revision ; and
- (d) exempt any portion of Oudh from the operation of this Part, or exempt any estate
from

(Part II.—Oudh.—Sections 14-15.)

from liability to pay the whole or any part of the patwari-rate, and cancel such exemption.

14. (1) There shall be formed for Oudh a fund to be called the Oudh Patwari Fund, and there shall be placed to the credit thereof—

Oudh Patwari Fund.

- (a) the proceeds of the patwari-rate, and
- (b) a contribution, to be made thereto every year, of such sum as the Local Government may allot from the general revenues at its disposal.

(2) The fund so formed shall be exclusively applicable to the purpose mentioned in sub-section (1) of the last foregoing section.

(3) An account of the fund shall be published annually by the Local Government in the official Gazette.

15. The landholder of any land in respect of which the patwari-rate is for the time being payable shall be entitled to recover from the tenant of the land such a cess as is hereinafter mentioned, that is to say,—

Payment of patwari-cess to payer of patwari-rate.

- (a) if the rent of the tenant is payable in money, then a cess on such rent at the rate of one-and-a-half pies for every rupee thereof, or
- (b) if the land is held rent-free or rent in respect thereof is payable in kind or service, then a cess equivalent as nearly as may be to three-fourths of one per cent. of the rent in money which would on a reasonable assessment be payable in respect of the land.

(2) The cess in respect of such land as is described in clause (b) of sub-section (1) shall be computed, and be payable, in such manner as the Local Government may by general or special rules in this behalf prescribe.

16. Suits

(Part II.—Oudh.—Sections 16-17. Part III.—
North-Western Provinces and Oudh.—Sections
18-19.)

Recovery of
rate or cess
through
Revenue
Courts.

16. Suits for the recovery of any sum on account of the patwari-rate, or for the recovery of the cess mentioned in the last foregoing section or the money-equivalent of such cess, and appeals and other proceedings arising out of such suits, shall be cognizable as if such suits had been included among the suits mentioned in section 108 of the Oudh Rent Act, 1886.

XXII of
1886.

Character of
kanungos
and patwaris
and their
records.

17. Every kanungo and patwari shall be deemed to be a public servant within the meaning of the Indian Penal Code, and all official records and papers kept by him shall be deemed to be public records and the property of the Government.

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PART III.

NORTH-WESTERN PROVINCES AND OUDH.

Contribu-
tions of the
Government
to the Pat-
wari Funds.

18. The contributions to be made by the Local Government to the North-Western Provinces Patwari Fund and the Oudh Patwari Fund under sections 6 and 14 shall not, without the previous sanction of the Governor General in Council, amount in the aggregate in any year to a smaller sum than ten lakhs of rupees.

Obligation
to furnish
information
necessary for
the prepara-
tion of
records.

19. Any person whose rights, interests or liabilities are required by any enactment for the time being in force or by any rule under any such enactment to be entered in any official record or paper by a kanungo or patwari shall be bound to furnish, on the requisition of the kanungo or patwari or of any revenue-officer engaged in compiling the record or paper, all information necessary for the correct compilation thereof.