



The Darjeeling and Kurseong Municipal (Porters) Act, 1883

Act 5 of 1883

Keyword(s):

Registration and Control, Porter, Dandewalas, Carrying, Drawing, Propelling any Vehicle

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Bengal Act V of 1883

[THE DARJEELING AND KURSEONG MUNICIPAL (PORTERS) ACT, 1883.]

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Bengal Act V of 1883

[THE DARJEELING AND KURSEONG MUNICIPAL (PORTERS) ACT, 1883.]¹

SHORT TITLE GIVEN	..	Act I of 1903.
AMENDED	..	[Ben. Act I of 1939. West Ben. Act XXVI of 1954.
ADAPTED	..	[(a) The Government of India (Adaptation of Indian Laws) Order, 1937. (b) The Adaptation of Laws Order, 1950.

[16th May, 1883.]

An Act for the Registration and Control of Porters and Dandeewallas in the Darjeeling and Kurseong Municipalities.

WHEREAS it is expedient to provide for the registration and control of porters and *dandeewallas* in the Darjeeling and Kurseong Municipalities;

Preamble.

It is enacted as follows:—

1. In this Act the term ²["*mazdoors*"] shall be limited to porters, and to *dandeewallas* and other persons employed in carrying, drawing or propelling any vehicle.

Interpretation.

The term "Commissioners" means the Commissioners of the municipalities of Darjeeling or Kurseong constituted under the Bengal Municipal Act, 1884³, or other Act for the time being in force for the regulation of municipalities.

Ben. Act III of 1884.

2. This Act shall come into force in the Darjeeling and Kurseong municipalities respectively when extended thereto by an order of the ⁴[State Government] published in the ⁵[*Official Gazette*].

Commencement.

Such order shall specify the date on which this Act shall commence in such municipality and shall operate to extend the provisions of this Act to such municipality according to its tenor.

The ⁴[State Government] may, at any time, cancel or modify an order made under this section.

¹SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903).

²LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see the "*Calcutta Gazette*" of 1883, Part IV, page 53; for Report of Select Committee, see *ibid*, page 68, and for Proceedings in Council, see *ibid*, 1882, Supplement, page 1491; *ibid*, Supplement, pages 100 and 512.

³LOCAL EXTENT.—This Act extends only to the Darjeeling and Kurseong Municipalities (see the title and preamble), and comes into force therein only on publication of an order in the *Calcutta Gazette* (see s. 2).

⁴Substituted for the word "*coolies*" by s. 2 of the Darjeeling and Kurseong Municipal (Porters) (Amendment) Act, 1954 (West Ben. Act XXVI of 1954).

⁵Bengal Act III of 1884 has been repealed and re-enacted by the Bengal Municipal Act, 1932 (Ben. Act XV of 1932).

⁶The words "Provincial Government" were first substituted for the word "Lieutenant-Governor" by para. 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁷These words were substituted for the words "*Calcutta Gazette*" by para. 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Sections 3-8.)

Publication
of order.

3. The Commissioners shall, within fifteen days of such publication, cause a copy of the order to be deposited in the office of the Commissioners, and a copy shall be posted up in a conspicuous position at such office, and in such other places as the Commissioners may direct; and a public proclamation of such order shall be made throughout such municipality by beat of drum.

Appoint-
ment of
registering
officer.

4. The Commissioners at a meeting shall, for the purposes of this Act, appoint a registering-officer.

Licensing
and registra-
tion of
mazdoors.

5. Every ¹[mazdoor] personally working for gain within the limits of such municipality shall take out a ²license and shall thereupon be registered by the registering-officer appointed under the last preceding section, who shall keep a ²register in which he shall enter the name and residence of every such ¹[mazdoor] and every person applying shall, at all reasonable times, be furnished with a certified copy of such particulars on payment of a fee of eight annas:

Provided always that the provisions of this section shall not apply to any ¹[mazdoor] who is hired beyond the limits of the municipality for a period of time not exceeding twenty-four hours, but who performs a portion of the work imposed by such hiring within such limits.

Period of
license.

6. The year of registration shall commence on the first day of January of each year and every ²license granted on any date within that year shall, subject to the provisions of sections 12 and 20, remain in force to the thirty-first day of December next following and no longer.

Details of
license.

7. Every ²license granted by the registering-officer shall specify the number of the ²license, and the name and place of abode and age of the ¹[mazdoor] to whom such ²license is granted, and shall further state whether such ¹[mazdoor] is licensed to work as—

- (a) a monthly or other servant for a fixed period of time exceeding twenty-four hours; or
- (b) a ¹[mazdoor] empowered to work by the job, or for any period of time not exceeding twenty-four hours.

Every ²license shall bear date on the day on which the same shall be granted.

Licensed
mazdoor to
wear badge.

8. The registering-officer, shall, at the time of granting the ²license to any ¹[mazdoor] empowered to work by the job, or for any period of time not exceeding twenty-four hours, deliver to him a metal ²badge, upon which shall be marked or engraved a number corresponding with the number of such ²license.

Every ¹[mazdoor] to whom such ²badge is delivered shall at all times, while waiting for hire or during the performance of his duties as such ¹[mazdoor], or while attending before any Magistrate, carry such ²badge exposed to view.

¹Substituted for the word "coolie" by s. 2 of the Darjeeling and Kurseong Municipal (Porters) (Amendment) Act, 1954 (West Ben. Act XXVI of 1954).

²References to the expression "coolie" and the expression "coolies" in any register kept, license granted or badge delivered under the Act, shall be construed as references to the expression "mazdoor" and the expression "mazdoors" respectively, vide s. 3 *ibid*.

of 1883.]

(Sections 9-12.)

9. Whenever any ¹[*mazdoor*] empowered to work by the job, or for any period not exceeding twenty-four hours, shall omit to wear such ²badge exposed to view as aforesaid, he shall be liable to a penalty not exceeding five rupees.

Penalty for omitting to wear badge.

10. The Commissioners at a meeting, of which at least seven days' notice shall have been given by beat of drum, may make and publish, in such manner as they think fit, an order specifying the rates of hire in respect of all ¹[*mazdoors*] empowered to work by the job, or for any period not exceeding twenty-four hours.

Rates of hire to be fixed and published.

Such rates shall include rates calculated according to distance as well as rates calculated according to time, and such rates may from time to time be varied:

Provided that the list of rates calculated according to distance shall include rates in respect of such places situate beyond the limits of the municipality as may from time to time be determined upon by the Commissioners:

Provided further that no such order shall take effect until it has been confirmed by the ⁴[State Government] and published in the ³[*Official Gazette*].

A table of the rates of hire, legibly written or printed in English, Lepcha, Bhutia, Nagri, Urdu and Bengali, shall be affixed in some conspicuous place within the limits of the municipality; and a copy of the same or such portion thereof as may be deemed sufficient, shall be given to every ¹[*mazdoor*] at the time of registration.

11. Every such ¹[*mazdoor*] shall be entitled to receive payment for his hiring in accordance with the rates specified in the order mentioned in the last preceding section:

Mazdoor entitled to payment according to rates fixed, subject to special agreements for lower rates.

Provided that nothing in this Act contained shall prevent any such ¹[*mazdoor*] from being bound by any contract into which he may enter to receive payment at a rate lower than that fixed by such order.

12. Any ¹[*mazdoor*] engaged as a monthly servant, or for some other fixed period of time exceeding twenty-four hours, who shall be proved to the satisfaction of the Chairman of the Commissioners,—

Registration of *mazdoors* when engaged as monthly servants.

- to have deserted from such employment without reasonable cause during the period of his engagement;
- or to have been guilty of gross misconduct during such period of time;
- or to have wrongfully prevented or endeavoured to prevent any other ¹[*mazdoor*] from accepting employment,

¹See foot-note 1 on page 516, *ante*.

²See foot-note 2 on page 516, *ante*.

³Substituted for the word "*mazdoors*" by sec. 2 of the Darjeeling and Kurseong Municipal (Porters) (Amendment) Act, 1954 (West Ben, Act XXVI of 1954).

⁴See foot-note 4 on page 516, *ante*.

⁵See foot-note 5 on page 516, *ante*.

(Sections 13-16.)

shall be liable to have his ²license withdrawn or suspended for such period as the Chairman may direct.

Penalty for certain offences committed by registered *mazdoors*.

13. Every ¹[*mazdoor*] empowered to work by the job, or for any period not exceeding twenty-four hours, who shall, without reasonable excuse,

- refuse to accept hire at the rate fixed for such hiring;
- or desert from his hiring before being discharged therefrom;
- or demand more than the proper rate fixed for such hiring;
- or be drunk or make use of insulting or abusive language during the period of, or while waiting for, such hiring;
- or wrongfully prevent, or endeavour to prevent, any other ¹[*mazdoor*] from being hired;
- or fail to produce his table of rates when required to do so, shall be liable to a penalty not exceeding ten rupees, or in default of payment to imprisonment not exceeding one month.

Penalty for being unlicensed or lending license to another.

14. Any ¹[*mazdoor*] who shall work as such without being duly registered and licensed, and any ¹[*mazdoor*] who, having a ²license in force, shall transfer or lend the same, or allow the same to be used by any other person, shall be liable upon conviction in respect of any one of such offences, to a penalty not exceeding ten rupees, or in default of payment to imprisonment not exceeding one month.

Mazdoor entitled to have new badge on loss or obliteration of former one.

15. Whenever the writing on any ²badge shall become obliterated or defaced, so that the same shall not be distinctly legible, and also whenever any ²badge shall be proved, to the satisfaction of the registering-officer to have been lost or mislaid, the ¹[*mazdoor*] to whom the ²license relating to any such ²badge shall have been granted shall deliver such ²badge (if he shall have the same in his possession), and shall produce such ²license to the registering-officer; and such ¹[*mazdoor*] shall then be entitled to have a new ²badge delivered to him upon payment of such sum of money, not exceeding one rupee, as the registering-officer shall from time to time appoint.

Penalty for neglecting to deliver up badge, lending badge, etc.

16. Upon the expiration or other determination of any ²license granted to a ¹[*mazdoor*] under this Act, such ¹[*mazdoor*] shall deliver such ²license, and in the case of a ¹[*mazdoor*] empowered to work by the job, or for any period of time not exceeding twenty-four hours, the ²badge relating thereto, to the said registering-officer;

and every such ¹[*mazdoor*] who, after such expiration or determination as aforesaid, shall wilfully neglect for one week to deliver the same to the said officer, and also every ¹[*mazdoor*] who shall use, or wear, or detain any ²badge which shall have ceased to be in force, or other than such as shall have been delivered to him under the provisions of this Act, and every ¹[*mazdoor*] to whom any ²badge shall have been delivered as aforesaid, who shall lend such ²badge to any other person, and every person who shall wear or use the ²badge of any other ¹[*mazdoor*];

shall for every such offence be liable to a penalty of five rupees, or in default of payment to imprisonment, not exceeding one week.

¹See foot-note 1 on page 516. *ante*.

²See foot-note 2 on page 516. *ante*.

of 1883.]

(Sections 17-20.)

It shall be lawful for the registering-officer, or for any person employed by him for that purpose, to prosecute any ¹[mazdoor] so neglecting to deliver up his ²license or ²badge at any period, within twelve calendar months, after the expiration of the ²license.

17. Every ¹[mazdoor] or other person who shall, for the purpose of deception, use or wear or have any ²badge resembling any ²badge granted under the authority of this Act shall for every such offence be liable to a penalty not exceeding ten rupees or in default of payment to imprisonment not exceeding one month.

Penalty for using or having a counterfeit badge.

And it shall be lawful for any police-officer, or any person employed for that purpose by the registering-officer, to seize and take away any such ²badge, or any ²badge used for the purpose of deception as aforesaid, wheresoever the same may be found, and to deliver the same to the registering-officer.

18. Every ¹[mazdoor] empowered to work by the job, or for any period of time not exceeding twenty-four hours, who shall be in possession of any lost or unclaimed property shall within twenty-four hours carry such property, if not sooner claimed by the owner thereof, to the nearest police-station, and shall there deposit and leave the same with the sub-inspector or other officer on duty; and such ¹[mazdoor] making default herein shall be liable to penalty not exceeding five rupees, or, in default of payment, to imprisonment not exceeding one week.

Penalty for not depositing lost or unclaimed property.

19. Whenever any ¹[mazdoor] shall be summoned to appear before any Magistrate to answer any charge preferred against him under this Act, he shall carry with him his ²license, and produce the same if required so to do; and any ¹[mazdoor] who shall on such requisition fail, without reasonable cause, to produce such ²license, shall for every such offence be liable to a fine not exceeding five rupees.

Conviction to be endorsed on mazdoor's license. Penalty for failing to produce license.

It shall be lawful for any Magistrate, on conviction of any ¹[mazdoor] of any offence under this Act, to endorse on such ²license the nature of the offence, the date of the conviction and the penalty inflicted.

20. It shall be lawful for any Magistrate before whom any ¹[mazdoor] shall be convicted of any offence, whether, under this Act or under any other law in force, to revoke the ²license of such ¹[mazdoor] or to suspend the same for such time as the Magistrate shall think proper, and for that purpose to require the ¹[mazdoor] or any other person in whose possession such ²license and the ²badge (if any) thereto belonging shall then be to deliver up the same;

Revocation or suspension of mazdoor's license on his conviction of any offence.

and every ¹[mazdoor] or other person who, being so required, shall refuse or neglect to deliver up such ²license and such ²badge, or either of them, shall be liable to a penalty, not exceeding ten rupees, so often as he shall be so required, and refuse or neglect as aforesaid;

¹See foot-note 1 on page 516, ante.

²See foot-note 2 on page 516, ante.

(Sections 21-23.)

and the Magistrate shall immediately send every ¹license and every ¹badge delivered up to him, under this section to the registering-officer, who shall cancel such ¹license if it has been revoked by the Magistrate, or, if it has been suspended, shall, at the end of the time for which it shall have been suspended, re-deliver such ¹license with the ¹badge (if it shall have come into the possession of the registering-officer) to the ²[*mazdoor*] to whom it was granted.

Penalty for refusing to pay legal fare.

21. If any person who shall have hired any ²[*mazdoor*] shall refuse to pay such ²[*mazdoor*], or any authorized agent on his behalf, the proper sum payable for such hiring, it shall be lawful for any Magistrate to order payment of such sum and also such compensation as shall seem reasonable; and, in default of payment, such sum and compensation may be recovered in the same way as fines are recoverable under any Act for the time being in force for the regulation of municipalities.

Jurisdiction.

22. Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed, but such Magistrate shall be subject to the provisions of the Code of Criminal Procedure ³[, 1898,] as to the amount of fine or imprisonment he may inflict:

Act V of 1898.

Provided that the provisions of this section shall not apply to section 12 of this Act.

23. [*Disposal of fines.*—Omitted by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

¹See foot-note 2 on page 516, *ante*.

²See foot-note 1 on page 516, *ante*.

³This figure was inserted by s. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).