



The Calcutta Sheriff's Act, 1948

Act 30 of 1948

Keyword(s):

Sheriff, Deputy Sheriff, Order of High Court, Civil Post

DISCLAIMER: This document is being furnished to you for your information by PRS Legislative Research (PRS). The contents of this document have been obtained from sources PRS believes to be reliable. These contents have not been independently verified, and PRS makes no representation or warranty as to the accuracy, completeness or correctness. In some cases the Principal Act and/or Amendment Act may not be available. Principal Acts may or may not include subsequent amendments. For authoritative text, please contact the relevant state department concerned or refer to the latest government publication or the gazette notification. Any person using this material should take their own professional and legal advice before acting on any information contained in this document. PRS or any persons connected with it do not accept any liability arising from the use of this document. PRS or any persons connected with it shall not be in any way responsible for any loss, damage, or distress to any person on account of any action taken or not taken on the basis of this document.

©

West Bengal Act XXX of 1948¹

THE CALCUTTA SHERIFF'S ACT, 1948.

AMENDED . . . [West Ben. Act XXIII of 1950.
West Ben. Act VIII of 1959.

ADAPTED . . . The Adaptation of Laws Order, 1950.

[15th October, 1948.]

An Act to provide for certain matters relating to the office of the Sheriff of Calcutta.

WHEREAS it is expedient to provide for certain matters relating to the office of the Sheriff of Calcutta;

It is hereby enacted as follows:—

1. (1) This Act may be called the Calcutta Sheriff's Act, 1948. Short title and commencement.
(2) It shall come into force on such date² as the ³[State] Government may, by notification in the *Official Gazette*, appoint.
2. In this Act, unless there is anything repugnant in the subject or context, "prescribed" means prescribed by rules made under this Act. Definition.
3. (1) The Sheriff of Calcutta (hereinafter referred to as the Sheriff) shall be appointed annually by the Governor from a panel of three persons to be nominated on the occasion of each vacancy by the High Court in Calcutta. Appointment of the Sheriff of Calcutta.
(2) The Sheriff shall hold office during the pleasure of the Governor and shall be entitled to such ⁴[remuneration] as the Governor may determine and no other ⁴[remuneration].
4. The Deputy Sheriff of Calcutta ⁵[hereinafter referred to as the Deputy Sheriff] shall be appointed in such manner and shall be entitled to such ⁴[remuneration] as may be prescribed. Appointment of the Deputy Sheriff of Calcutta.

¹For Statement of Objects and Reasons, see the *Calcutta Gazette, Extraordinary*, dated the 26th August, 1948, Part IV, page 687; for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meeting of the West Bengal Legislative Assembly held on the 8th September, 1948.

²This Act was brought into force on the 20th December, 1948, *vide* notification No. 5968, dated the 14th December, 1948, published at page 4652 of Part 1 of the *Calcutta Gazette* of the 16th December, 1948.

³This word within the square brackets was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁴This word within the square brackets was substituted with retrospective effect by ss. 2 and 3 of the Calcutta Sheriff's (Amendment) Act, 1950 (West Ben. Act XXIII of 1950) for the word "allowances".

⁵These words within the square brackets were inserted by s. 2 of the Calcutta Sheriff's (Amendment) Act, 1959 (West Ben. Act VIII of 1959).

(Sections 4A-8.)

The Deputy Sheriff to perform functions of the Sheriff during casual vacancy in the office.

4A. In the event of the occurrence of any vacancy in the office of the Sheriff by reason of his death, resignation or removal, or otherwise, the Deputy Sheriff shall perform the functions of the Sheriff until a new Sheriff, appointed in accordance with the provisions of this Act, enters upon his office and shall, during such period, have the same privileges and be subject to the same liabilities as the Sheriff and be entitled to such remuneration as the Governor may determine.

Power of the High Court to control certain functions of the Sheriff and other employees.

5. Subject to the provisions of this Act, the Sheriff and the Deputy Sheriff and their subordinates shall carry out the orders of the High Court in Calcutta in the manner determined by the said Court.

Posts of officers and servants of the Sheriff to be civil posts under the Government.

6. Notwithstanding anything contained in the Charter establishing the Supreme Court of Judicature at Fort William in Bengal, dated the twenty-sixth day of March, 1774, or in any other law, the posts of all such officers and servants (other than employees who are paid by the day) as may be employed for the proper performance of the duties of the Sheriff shall, on the commencement of this Act, be civil posts under [the Government].

Indemnity.

7. The Sheriff and the Deputy Sheriff and their subordinates shall be exempt from liability in respect of all their acts or defaults done or committed while exercising or purporting to exercise their functions under this Act or for which they would have been liable but for this Act.

Liability of the State revenues in certain cases.

8. (1) The Consolidated Fund of the State shall be liable to make good all sums required to discharge any liability from which the Sheriff, the Deputy Sheriff or their subordinates are exempted under the provisions of section 7.

(2) Nothing in sub-section (1) shall be deemed to render liable the [Consolidated Fund of the State] or any Sheriff, or Deputy Sheriff or any of their subordinates appointed after the commencement of this Act for anything done by, or under the authority of, any Sheriff or Deputy Sheriff before the commencement of this Act.

¹Section 4A was inserted by s. 3 of the Calcutta Sheriff's (Amendment) Act, 1959 (West Ben. Act VIII of 1959).

²For notification relating to the taking over of the administration of the office of the Sheriff of Calcutta by the Government of West Bengal, see notification No. 5969J., dated 14.12.48, published in the *Calcutta Gazette* of 1948, Part I, page 1652.

³These words within the square brackets were substituted for the words "the Crown in India" by para. 3 of, and the Eleventh Schedule to, the Adaptation of Laws Order, 1950.

⁴This sub-section was substituted for the original sub-section with retrospective effect by s. 4 of the Calcutta Sheriff's (Amendment) Act, 1950 (West Ben. Act XXIII of 1950).

⁵Substituted for the words within the square brackets "revenue of the State" by s. 4 of the Calcutta Sheriff's (Amendment) Act, 1959 (West Ben. Act VIII of 1959).

XXX of 1948.]

(Sections 10, 11.)

(3) Nothing in sub-section (1) shall prevent the ¹[State] Government from recovering any sum paid by it under that sub-section from the Sheriff, the Deputy Sheriff or any of their subordinates liable personally to pay such sum.

(4) Sums payable by the ¹[State] Government under sub-section (1) are hereby declared to be charged on the ²[Consolidated Fund of the State].

³9. The Sheriff shall dispose of, in such manner and at such times as may be prescribed, the balance standing on the date of the commencement of this Act to the credit of the account known as the 'Sheriff's Account Number II' and all fees, poundages, charges and other monies realised by him or by any of his officers and servants, after the said date.

Disposal of fees, poundages and charges by the Sheriff.

⁴9A. The Sheriff shall not incur any expenditure on account of the wages of temporary guards, advertisement charges, subsistence allowance or on any other account unless the parties have deposited the necessary amounts in advance.

The Sheriff not to incur any expenditure unless parties have deposited amounts.

10. The Trustees of the fund known as "the Sheriff's Pension Fund" (hereinafter referred to as the Fund), maintained for the provision of pensions for the officers and servants employed by the Sheriff ⁵* * *, shall transfer and pay to such authority, in such manner and at such times as may be prescribed, the balance standing to the credit of the Fund ⁶* * *, and such balance shall be carried to the account and credit of the ⁷[Consolidated Fund of the State].

The Sheriff's Pension Fund.

11. (1) All officers and servants previously employed by the Sheriff who, at the date of the commencement of this Act, are in receipt of pensions or entitled to gratuities in accordance with the rules of the Fund, shall be paid such pensions or gratuities out of the ⁸[Consolidated Fund of the State].

Pensions.

(2) All officers and servants of the Sheriff, who are in his employment at the date of the commencement of this Act, shall, in respect of such

¹See foot-note 3 on page 91, *ante*.

²Substituted for the words "revenues of the State" by s. 4 of the Calcutta Sheriff's (Amendment) Act, 1959 (West Ben. Act VIII of 1959).

³Section 9 was substituted with retrospective effect by s. 5 of the Calcutta Sheriff's (Amendment) Act, 1959 (West Ben Act VIII of 1959).

⁴Section 9A was inserted by s. 6, *ibid*.

⁵The words "prior to the commencement of this Act" were omitted by s. 6 of the Calcutta Sheriff's (Amendment) Act, 1950 (West Ben. Act XXIII of 1950).

⁶The words "at the date of the commencement of this Act" were omitted, *ibid*.

⁷Substituted for the words "revenues of the State" by s. 4 of the Calcutta Sheriff's (Amendment) Act, 1959 (West Ben. Act VIII of 1959).

⁸Substituted for the words "revenues of the State" by s. 7(1), *ibid*.

(Section 11.)

employment prior to that date, be paid out of the ¹[Consolidated Fund of the State] such pensions, gratuities and compensation as may be determined by the ²[State] Government in accordance with the rules of the Fund:

Provided that such compensation, if any, shall not be less than that which, in similar circumstances and in accordance with the rules made in this behalf by the ²[State] Government, would be admissible to persons in the service of the ²[State] Government.

(3) Any dispute arising in connection with the amount of any pension, gratuity or compensation payable under sub-section (1) or sub-section (2) shall be referred to the West Bengal Public Service Commission, the decision of which shall be final and shall not be the subject-matter of any proceedings in any Court.

(4) All pensions payable under this section out of the ¹[Consolidated Fund of the State] shall be so payable in all respects as pensions payable for service under the ²[State] Government and shall be subject to the rules made in that behalf by the ²[State] Government.

(5) If any officer or servant of the Sheriff is permanently re-employed in the service of the ²[State] Government, ³[the period of his employment under the Sheriff including the period up to the date of such permanent re-employment] shall, for the purposes of the rules relating to ⁴[leave,] pay and pensions, be deemed to have been service under the ²[State] Government:

⁵Provided that if any such officer or servant has been paid any pension or gratuity under sub-section (2) then, unless he surrenders his right to such pension and refunds the amount received by him as pension or gratuity the period of employment under the Sheriff prior to the date of the commencement of this Act shall not count as service for purposes of pension under this sub-section.

⁶*Explanation.*—The rules relating to leave, pay and pensions shall mean the rules relating to the leave, pay and pensions of servants of the State Government.

¹Substituted for the words "revenues of the State" by s. 7(1) of the Calcutta Sheriff's (Amendment) Act, 1959 (West Ben. Act VIII of 1959).

²See foot-note 3 on page 91, *ante*.

³Substituted with retrospective effect for the words "his employment under the Sheriff" by s. 7(2)(a) of the Calcutta Sheriff's (Amendment) Act, 1959 (West Ben. Act VIII of 1959).

⁴This word within the square brackets was inserted with retrospective effect by s. 7(2)(b) of the Calcutta Sheriff's (Amendment) Act, 1959 (West Ben. Act VIII of 1959).

⁵Substituted for the former proviso with retrospective effect by s. 7(2)(c) of the Calcutta Sheriff's (Amendment) Act, 1959 (West Ben. Act VIII of 1959).

⁶Substituted for the former "*Explanation*" with retrospective effect by s. 7(2)(d) *ibid*.

XXX of 1948.]

(Section 12.)

¹12. (1) The ²[State] Government may make rules³ for carrying into effect the purposes of this Act in regard to those functions of the Sheriff which are discharged under the administrative control of the ²[State] Government.

Power to
make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for,—

- (a) the manner of appointment and the ⁴[remuneration] of the Deputy Sheriff referred to in section 4;
- (b) the distribution of work between the Sheriff and the Deputy Sheriff;
- (c) the authority referred to in sections 9 and 10 and the manner in which and the time at which the fees ⁵[, poundage and charges,] and balances referred to in these sections shall be transferred and paid;
- (d) the safe custody and deposit of all monies, securities and other moveables which come into the hands of the Sheriff; and
- (e) the accounts to be maintained by the Sheriff, and the audit and inspection thereof.

¹For notification, made under s. 12, authorising the Sheriff of Calcutta to appoint the Deputy Sheriff, see notification No. 5997J., dated 15.12.48, published in the *Calcutta Gazette* of 1948, Part I, page 1652.

²See foot-note 3 on page 91, *ante*.

³For the Calcutta Sheriff's Rules, 1950, made under s. 12, see notification No. 5743J., dated 6.9.50, published in the *Calcutta Gazette* of 1950, Part I, pages 1916-1917.

⁴This word within the square brackets was substituted for the word "allowances" by s. 7(1) of the Calcutta Sheriff's (Amendment) Act, 1950 (West Ben. Act XXIII of 1950).

⁵These words within the square brackets were inserted by s. 7(2), *ibid*.