

# The Rajasthan Local Fund Audit Act, 1954

RAJASTHAN

India

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### Act 28 of 1954

- Published on 11 April 2011
- Commenced on 11 April 2011
- [This is the version of this document from 11 April 2011.]
- [Note: The original publication document is not available and this content could not be verified.]

The Rajasthan Local Fund Audit Act, 1954 Act No. 28 of 1954 Statement of Objects and Reasons (Act No. 15 of 2011). - Thirteenth Finance Commission has, for the period from 2011-12 to 2014-15, recommended a total grant of Rs. 5163.90 crore for the Local Bodies (PRIs and ULBs) of Rajasthan State out of which Rs. 1789.50 crores is in the form of Performance Grant. The Commission has laid down certain conditions which should be complied with to be eligible to draw down the State's share of Performance Grant. One of the conditions was to place The Annual Report of the Director of Local Fund Audit before the State Legislature. At present, there is no provision of preparing and laying down the Annual Report of Director, Local Fund Audit before the State Legislature in the Rajasthan Local Fund Audit Act, 1954. In order to make such provisions a new Section 18 is proposed to be added in the aforesaid Act. The Bill seeks to achieve the aforesaid objectives. [Received the assent of His Highness the Rajpramukh on the 17th day of December, 1954, Assent published in the Rajasthan Gazette (Rajpatra) No. 132, Part 4-A, Extraordinary dated December 24, 1954] An Act to provide for and regulate the Audit of the Local Funds under the management or control of certain local authorities in [the State of Rajasthan] [Substituted by Rajasthan Act No. 27 of 1957]. Be it enacted by the Rajasthan State Legislature in the fifth year of the Republic of India, as follows:-

### 1. Short title.

- This Act may be called the Rajasthan Local Fund Audit Act, 1954.

### 2. [ Extent. [Substituted by Rajasthan Act 27 of 1957.]

- This Act extends to the whole of the State of Rajasthan],

### 3. Definitions.

- In this Act, unless there is anything repugnant in the subject or context:- (a) "Auditor" means the [Director] [Substituted by Rajasthan Act No. 17 of 1987.] or any other person empowered by the

State Government to perform the functions of a auditor under this Act;(b)[ "Chairman" means the President, Chairman, Mayor of a Municipal institution; Zila Pramukh, Pradhan, or Sarpanch of a Panchayati Raj Institution or Chairperson of any other local authority, by whatever name called, and in case of a dissolved or superseded local authority, the person or persons lawfully appointed to exercise the powers and perform the duties of such local authority] [Substituted by Rajasthan 8 of 1998 [31.7.1998]]; (c)[ "Audit" includes Special Audit, Pre-Audit, Concurrent Audit, Post Audit including Detailed Audit and Test Audit; [Substituted by Rajasthan Act No. 17 of 1987.](i)"Special Audit" means an audit of accounts pertaining to a specified item of series of items requiring through examination;(ii)"Pre-Audit" means audit before payment, withdrawal or adjustment out of a local fund;(iii)"Concurrent Audit", means audit on the spot, either simultaneously with or soon after the making of payment, withdrawal or adjustment out of a Local Fund; and(iv)"Post Audit" means audit after making of payment, withdrawal or adjustment out of a local fund, which is not Concurrent Audit but includes Detailed Audit which means an audit of accounts for the whole year and Test Audit which means an audit of a certain period selected at random by the Director or any other authority empowered by him];(d)[ "Director" means the Director of Local Fund Audit Department and includes a Senior Deputy Director, Deputy Director and an Assistant Director of the said department] [Substituted by Rajasthan Act No. 27 of 1957.];(dd)[ "Local Authority" shall mean a Municipal Board, Council, Corporation, a Zila Parishad, a Panchayat Samiti, a Panchayat or other authority legally entitled to or entrusted by the Government with the control or management of a municipal or local fund, and shall include, a society registered under the Rajasthan Societies Registration Act, 1958 (Act No.28 of 1958); and such other institutions, boards, agencies or bodies as also subsidiaries thereof, constituted under any Rajasthan Law, which are in receipt of financial grant, subsidy, funds or financial assistance in any form from the Government;] [Inserted by Rajasthan 8 of 1998 (31.7.1998).](e)"Local Fund" means any fund to the control or management of which a local authority is legally entitled and includes the proceeds of any cess, rate, duty, fee or tax which such authority;(f)[X X X] [Deleted by Rajasthan Act No. 17 of 1987.](g)"Controlling Authority" means any officer appointed or authorised by the State Government to perform the functions of the Controlling Authority under this Act.

#### **4. Liability of Local Authorities to submit their accounts for audit.**

- The accounts of any local authority whose accounts are declared by the State Government, by a notification in the [Official Gazette] [Substituted by Rajasthan 27 of 1957.] to be subject to audit under this Act, shall. Notwithstanding anything contained in any enactment, by which such local authority is constituted, or in any rules made thereunder, be subject to audit in all respects in the manner provided by or under this Act.

#### **5. Accounts to be submitted for audit at such period or periods as may be required.**

- The Chairman of every local authority, whose accounts are declared under section 4 to be subject to audit under this Act, shall present or cause to be presented for audit all accounts of its local fund in the manner and form prescribed by rules under section 16 to the auditor yearly or at such period or periods, as may be required by the State Government [:] [Substituted by Rajasthan Act No. 17 of

1987.][Provided that the Chairman of every such Local Authority shall present or cause to be presented for audit all accounts of its local fund in the manner and form prescribed by rules immediately in the case of concurrent audit and in the case of test audit for the period as demanded by the Director] [Added by Rajasthan Act No. 17 of 1987.],

## **6. Power of auditor to require production of documents and attendance of persons concerned, etc.**

(1)For the purpose of any audit under this act, an auditor may-(a)require in writing the production at the head office of the local authority of such vouchers, statements, returns, correspondence, notes or other documents in relation to the accounts, as he may think fit;(b)require in writing any salaried servant of the local authority account able for or having the custody or control of such vouchers, statements, returns, correspondence, notes or other documents or any person having directly, indirectly, by himself or his partner, any share or interest in any contract with or under the local authority, to appear in person or an authorised agent before him at the head office of the local authority, and answer any question or sign a declaration with respect thereto;(c)in the event of an explanation being required from the Chairman or other honorary officer or member of a local authority, in writing invite such person to meet him at the head office of the local authority and shall in writing specify the point on which his explanation is required.(2)The auditor may, in any requisition or invitation made under Sub-section (1), fix a reasonable period, not being less than three days within which the said requisition or invitation shall be complied with.(3)The auditor shall give to the local authority not less than two weeks notice in writing of the date on which he proposes to commence the audit:Provided that, notwithstanding anything contained in this Subsection, the Auditor may, for special reasons which shall be recorded in writing, give shorter notice than two weeks or commence [a concurrent or test audit or] [Inserted by Rajasthan Act No. 17 of 1987.] a special or detailed audit on the authority of the State Government or the Controlling Authority or the [Director] [Substituted by Rajasthan Act No. 17 of 1987.] without giving notice.

## **7. Penalty for disobeying requisition under section 6.**

(1)Any person who wilfully neglects or refuses to comply with any requisition lawfully made upon him under clause (a) of clause (b) or Sub-section (1) of section 6 shall be liable, on conviction before a magistrate, to a fine which may extend to one hundred rupees:Provided that no proceedings under this section shall be instituted except on the written sanction of the State Government, or the Controlling Authority:Provided further that before going such sanction the State Government or the Controlling Authority shall call upon the person against whom the proceedings are to be instituted to show cause why the sanction should not be given.(2)No court inferior to that of a magistrate of the first class shall try any affiance against this Act.

## **8. Audit report to be sent to certain officers and bodies as [State Government] [Substituted by Rajasthan Act No. 27 of 1957.] may direct.**

- As soon as practicable after completion of the audit, but not later than three months thereafter, the [Director] [Substituted by Rajasthan Act No. 17 of 1987.] shall prepare a report on the accounts audited and examined and shall send such report to the local authority concerned and copies thereof to such officers and bodies, as the State Government may direct.

## **9. [Director s] [Substituted by Rajasthan Act No. 17 of 1987.] report what to contain.**

- The [Director] [Substituted by Rajasthan Act No. 17 of 1987.] shall include in his report, a statement of-(a)every payment which appears to him to be contrary to law;(b)the amount of any deficiency waste or loss which appears to have been caused by the gross negligence or misconduct of any person;(c)the amount of any sum received which ought to have been but is not brought into account by any person, and(d)any material impropriety or irregularity which he may observe in the accounts of or in the recovery of moneys due to the local authority, other than those mentioned in clauses (a), (b) and (c) above.

## **10. Local Authority to remedy defects procedure to be followed after report of the [Director] [Substituted by Rajasthan Act No. 17 of 1987.] under section 8.**

(1)On receipt of a report under section 8, the Chairman shall remedy any defects or irregularities which may have been pointed out in the report, and shall place the report, together with a statement of the action taken or proposed to be taken thereon and an explanation in regard thereto before a meeting of the local authority. He shall also, within three months of the receipt of the report, sent to the [Director] [Substituted by Rajasthan Act No. 17 of 1987.] intimation of his having remedied the defects or irregularities, if any, pointed out in the report, or shall, within the said period supply the [Director] [Substituted by Rajasthan Act No. 17 of 1987.] any further explanation in regard to such defects or irregularities as, the local authority may wish to give.(2)On receipt of such intimation or explanation, the [Director] [Substituted by Rajasthan Act No. 17 of 1987.] may, in respect of all or any of the matters discussed in his report,-(a)accept the intimation or explanation given by the Chairman and withdraw the objection, or(b)direct that the matter be re-investigated at the next audit or at any earlier date, or(c)hold that the defects or irregularities pointed out in the report or any of them have not been removed or remedied.(3)The [Director] [Substituted by Rajasthan Act No. 17 of 1987.] shall send a report of his decision to the Controlling Authority within one month of the date of the receipt by him of the intimation or explanation of the Chairman referred to in Sub-section (1) or, in the event of the Chairman failing to give such intimation or explanation, on the expiry of period of three months mentioned in the said Sub-section and shall forward a copy of such report to the Chairman. If the [Director] [Substituted by Rajasthan Act No. 17 of 1987.] holds that any defects or irregularities have not been removed or remedied, he shall state in the report whether, in his opinion, the defects or irregularities can be regularised and, if so, by what method, and if they do not admit of being regularised, whether they can be condoned and, if so, by what authority. He shall also state whether the amounts to which the defects or irregularities relate should, in his opinion, be surcharged or charged, and, if so against whom:Provided that in the case of reports on the accounts of such local authorities as are specially notified by the State Government

in this behalf, the report referred to in this Sub-section shall be submitted by the [Director] [Substituted by Rajasthan Act No. 17 of 1987.] to such officer, being the Head of a Department, as the State Government may direct. Such Officer shall take such action, as may be necessary regarding any defects or irregularities falling under clause (c) of Sub-section (2) which may have been brought to notice in the report. If he is of the opinion that the amounts to which any such defects or irregularities relate, should be surcharged, or charged, he shall forward the report to the Controlling Authority with his recommendation in that behalf.(4)The local authority concerned shall publish in its next administration report such portion of the report under section 8, as deal with defects and irregularities falling under clause (c) of Sub-section (2), together with the explanation thereof, if any, given under Sub-section (1), and the final report of the [Director] [Substituted by Rajasthan Act No. 17 of 1987.] thereon given under Sub-section (3). Such report of defects and irregularities, explanation and final report shall be open to the inspection of the public at the office of the local authority for a period of one month from the date of their receipt.(5)Nothing in this section or in section 9 shall preclude the [Director] [Substituted by Rajasthan Act No. 17 of 1987.] at any time from bringing to the notice of the Controlling Authority for such action, as the Controlling Authority may consider necessary, any information which appears to the [Director] [Substituted by Rajasthan Act No. 17 of 1987.] to support a presumption of criminal misappropriation or fraud or which in his opinion deserves special attention or immediate investigation.

## **11. Controlling Authority to surcharge or charge illegal payment or loss caused by gross negligence or misconduct.**

(1)The Controlling Authority may after considering the recommendation of the [Director] [Substituted by Rajasthan Act No. 17 of 1987.] or of any Head of a Department under the proviso to Sub-section (3) of section 10, as the case may be, and after taking the explanation of the person concerned, or making such further inquiry, as he may consider necessary, disallow any item which appears to him to be contrary to law and surcharge the same on the person making or authorising the making of, the illegal payment and may charge against any person responsible therefor the amount of any deficiency, waste or loss caused by the gross negligence or misconduct of that person or any sum received which ought to have been but is not brought into account by that person and shall, in, every such case, certify the amount due from such person:Provided that no order of surcharge or charge shall be made under this act in respect of any item included in, or which ought to have been include in, but was omitted from any accounts for any period prior to 1st April, 1955.(2)The Controlling Authority shall state in writing the reasons for its decision in respect of every surcharge or charge and shall send by registered post a copy thereof to the person against whom it is made.(3)If a person to whom a copy of the decision of the Controlling Authority is sent under Sub-section (2) refuses to take delivery thereof, he shall be deemed to have been duly received it on the day on which it was refused by him.

## **12. Recovery of surcharges and charges how made.**

(1)Every sum certified by the Controlling Authority to be due from any person under Sub-section (1) of section 11 shall be paid by such person into the Treasury or Bank in which the funds of the local authority concerned are lodged, within one month from the receipt by him of the decision of the

Controlling Authority, unless within that time such person has applied to the Court or to the State Government as provided in section 13.(2)The said sum, if not duly paid, or, if an application has been made to the court or to the State Government against the decision of the Controlling authority as provided in Sub-section (1) or section 13, such sum as the Court or the State Government shall declare to be due, shall be recoverable as if it were an arrear of land revenue.

### **13. Application against order of surcharge or charge.**

(1)Any person aggrieved by any order of surcharge or charge made by the Controlling Authority under Sub-section (1) of section 11 may, within one month from the receipt by him of the decision of the Controlling Authority, either-(a)apply to the principal Civil Court of original jurisdiction to set aside such order; and the Court (after hearing such person and the Controlling Authority or his representative and), taking such evidence as it thinks necessary, may confirm, modify or remit such surcharge or charge and make such orders as to costs as it thinks proper in the circumstances, or(b)in lieu of such application; apply to the State Government, which shall, after hearing the person aggrieved and the Controlling Authority for his representative, pass such orders thereon as it thinks fit, and the orders made by the Court or the State Government under this Sub-section shall be final.(2)Pending disposal of the application all proceedings on the certificate shall be stayed if the person aggrieved by the decision of the Controlling Authority makes out a [prima facie] case and obtains from the Court or the State Government an order staying proceedings.

### **14. Expenses in respect of requisitions of auditors to be payable out of local funds.**

- All expenses incurred by a local authority in complying with any requisition of an auditor under Sub-section (1) of section 6 shall be payable out of its local fund.

### **15. Exercise of powers and duties of [State Government] [Substituted by Rajasthan Act No. 27 of 1957.] by other officers.**

- The powers and duties conferred and imposed upon the State Government by or under this Act may be exercised by any officer empowered by the State Government by rules made in this behalf.

### **16. Rules.**

(1)The State Government may by notification in the [Official Gazette] [Substituted by Rajasthan Act No. 27 of 1957.], make rules, not inconsistent with this Act, for the purpose of carrying into effect the provisions of this Act.(2)In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-(a)the manner and form in which the accounts of a local authority, whose accounts are subject to audit under this Act, shall be kept and presented;(b)the power and duties of Auditors and procedure to be followed by them conducting an audit and the times at which such audit may be conducted;(c)the powers and duties of the [Director] [Substituted by Rajasthan Act No. 17 of 1987.];(d)the periods at which

accounts of the local fund of a local authority shall be submitted for audit under section 5;(e)the officer or officers to be empowered under section 15:(f)the manner in which all matters required to be published under this Act shall be published; and(g)all other matters which may be or are required to be prescribed by rules.

## **17. [ Duty to maintain accounts in specified cases. [Inserted by Rajasthan Act No. 30 of 1961.]**

- Notwithstanding anything in this Act or in any enactment constituting any local authority or in any rules made thereunder, the [Director] shall perform such duties and exercise such powers in relation to the maintenance of such accounts of such local authority or authorities, as the State Government may direct.]

## **18. [ Laying of audit report. [Added by Rajasthan Act No. 15 of 2011, dated 11.4.2011.]**

- The Director shall send to the Government annually a consolidated report of the accounts audited by him containing such matters which he intends to bring to their notice and the Government shall, after the receipt of the same, cause it to be laid before the State Legislature.]Rajasthan Local Fund Audit Act, 1954(No. 28 of 1954)Notifications[Notification dated 20-12-1961, Published in Rajasthan Rajpatra part 4 (ga), date 1-1-1962]The Government of Rajasthan is pleased to appoint the following authorities to perform the functions and duties of the Controlling Authority under the Act in respect of the bodies/ departments mentioned against each:-

Authority	Body/ Department
1. Chairman, Board of Revenue	Court of Wards under the Rajasthan Government.
2. Commissioner, Devasthan	Local Fund Temples under the Devasthan Department,Government of Rajasthan.

[Notification dated 3-1-1963, Published in Rajasthan Rajpatra (Extraordinary), part 4(ga), date 8.1.1963]In pursuance of clause (g) of section 3 of the Rajasthan Local Fund Audit Act. 1954 (Act No.28 of 1954) and in supersession of this Department Notification No. F.16(58) LSG/61, dated 8th April, 1961, Published in Rajasthan Rajpatra (Extraordinary), part IV (Ka) of the same date, the State Government hereby appoints with immediate effect the following officers to perform the functions of the Controlling Authority under the provisions of the said Act:-

1. Director of Local Bodies	In respect of Municipal Councils and Municipal Boards oftowns with population exceeding 50,000.
2. Collector	In respect of all Municipal Boards of his Districtexcept Municipal Councils and Municipal Boards oftowns with population exceeding 50,000.

[Notification dated 3-7-1964, Published in Rajasthan Rajpatra part 4(ga), date 3-9-1964]In exercise of powers conferred by section 3(g) of the Rajasthan Local Fund Audit Act, 1954 (Act No.28 of 1954), the State Government is hereby pleased to appoint the Secretary to the Government Law and

Judicial Department, as Controlling Authority for performing the functions provided in the said Act in respect of the Office of the Official Trustee, Rajasthan.[Notification Published in Rajasthan Rajpatra part I-A, date 30-10-1980, page 88]In pursuance of clause (g) of section 3 of the Rajasthan Local Fund Audit Act, 1954 (Act No.28 of 1954), the State Government hereby appoints with immediate effect the Secretary, Rajasthan State Agricultural Marketing Board, Jaipur to perform the functions of the Controlling Authority under the provisions of the said Act.