

The Benares Family Domains Act, 1904

UTTAR PRADESH

India

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Act 3 of 1904

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The Benares Family Domains Act, 1904(U.P. Act No. 3 of 1904)For Statement of Objects and Reasons, see Gazette, 1904, Part VI, page 19.[Received the assent of the Lieutenant Governor on the 13th August, 1904, and of the Governor-General on the 1st November, 1904, and was published under section 40 of the Indian Councils Act, 1861, on the 17th December, 1904] [See Gazette, Part VI, pages 89-94.]An act to provide for the imposition of rates on land in the Family domains of the Raja of Benares and for the recovery of certain demands payable in the said Domains.Whereas it is expedient to exempt by law the Family Domains of the Raja of Benares from the operation of the laws for time being in force relating to the imposition of rates on land and the disposal of the proceeds of such rates, and to make special provisions for the assessment and realization of rates on land held by tenants in the said Family Domains, and for the disposal of the proceeds of such rates;And whereas it is also expedient to make better provision for recovering certain demands payable in the Family Domains.It is hereby enacted as follows:-

Part I – Preliminary

1. Short title and extent.

(1)This Act may be called the Benares Family Domains Act, 1904.(2)[It shall extend to the whole of Uttar Pradesh] [Substituted by ALO 1950.]

2. Definitions.

- In this Act unless there is anything repugnant in the subject or context,-(1)the expression "annual value" means-(a)the cash rent recorded in the patwaris records as payable by a tenant; or(b)in cases where the rent is paid in kind or where land is held rent-free or at nominal rates of rent or is cultivated by the inferior proprietor himself, the rent which would be payable at prevailing rates by occupancy tenants for land of similar quality and with similar advantages.(2)the expression "inferior proprietor" includes a mukarraridar a manzuridar, and a holder of a revenue-fee mahal;(3)the

expression "land" means land which is let or held by a tenant for agricultural purposes, and land cultivated by an inferior proprietor himself with his own stock or by his servants or by hired labour;(4)the expression "rent" means whatever is, in cash or kind, to be paid or delivered by a tenant for land held by him;(5)The expression "tenant" means a person by whom rent is, or but for a contract, express or implied, would be payable to the Raja of Benares to an inferior proprietor; and(6)the expression "tenant at fixed rates" means a tenant holding land the rent of which under the laws in force or the the custom prevailing in the Family Domains is not liable to enhancement, but does not include a tenant paying rent in kind.

3. Exemption of Family Domains from Act III of 1878 and Act XIV of 1883.

- The [Agra Local Rates Act, 1878] [Repealed by U.P. Act I of 1914.], and the [United Provinces Local Boards Act, 1883] [Repealed by U.P. Act III of 1906.], shall not apply to the Family Domains.

Part II – Assessment, Recovery and Disposal Rates

4. Amount of rate.

- All land situated in the Family domains shall be liable to the payment of such rate as the [State Government] [Substituted by the ALO 1950 for 'Provincial Government' which had been Substituted by the ALO 1937 for 'Local Government'.] may declare by [notification] [See Notification No. 591-1-597-B, dated March 5, 1907, in Gazette 1907, Part I. page 768.] in the [Official Gazette] [Substituted by ALO, 1950 for 'Gazette'.] to be payable, not exceeding-(a)five per cent on the annual value in the case of the land of a tenant at fixed rates, a rent-free tenant, and an inferior proprietor cultivating his own land;(b)three and a half per cent on the annual value in the case of every other tenant.

5. Levy of rate.

- The rate notified under section 4 shall be levied by the Raja of Benares and the assessment of such rate shall be made through the channel of Raja.

6. Payment of rate by tenants.

- The amounts assessed under section 5 shall be paid by the tenants of the Raja of Benares and of inferior proprietors to the said Raja and to the said inferior proprietors respectively who may recover arrears of such amounts as if they were arrears of rent.

7. Payment of rate by inferior proprietors.

- The amounts assessed on the land of tenants of an inferior proprietor less 20 per cent deducted as costs of collection, and on the land cultivated by an inferior proprietor himself, shall be paid by the said proprietor to the Raja of Benares, who may recover arrears of such amounts as if they were

arrears of land revenue.

8. Appeal to Superintendent.

(1) In matters connected with the assessment and collection of any sum leviable under this Act, an appeal shall lie to the Superintendent of the Family Domains from the order of any person empowered by rules made under this Act to assess or collect the rate: Provided that such appeal be presented within sixty days from the date of the order. (2) The Superintendent's decision on such appeal shall be final, but shall be open to revision by the Board of Revenue.

9. Bar of suits in Civil Court.

- No suit shall lie in any Civil Court to set aside or modify any assessment made under this Act.

10. Credit of rates to a fund.

- All rates realized by the Raja of Benares under Part II of this Act shall be credited by him to a separate fund to be called the Family Domains Local Rates Fund.

11. Administration of fund.

- The administration of the said fund shall, subject to any [rules] [See Notification no. 591-1-597-B, dated March 5, 1907 in Gazette 1907, Part I, page 768.] made under section 22, Bengal Regulation VII of 1828, be entrusted to the Raja of Benares.

12. Exemption.

- The State Government may, by notification in the [Official Gazette] [Substituted for 'Gazette' by the ALO 1937.], except any land or class of land or any class of tenant from liability to pay the whole or any part of the rate notified under section 4 and may cancel such exemption.

13. Power to make rules.

(1) The [State Government] [Substituted by the ALO 1950 for 'Provincial Government' which had been Substituted by the ALO 1937 for 'Local Government'.] may make rules to carry out any of the purposes and objects of this Act. (2) In particular, and without prejudice to the generality of the foregoing power, such rules may—(a) prescribe the method of ascertaining the annual value of land and of determining whether a tenant is holding land at a nominal rate of rent or not; (b) provide for the determination of the class to which a tenant belongs in cases where the character of the tenure of land is doubtful; (c) prescribe by whom the rate shall be assessed and collected, and what instalments and at what times the amounts due under sections 6 and 7 shall be payable; and (d) regulate the procedure in all cases under this Act. (3) All rules made by the [State Government] [Substituted by the ALO 1950 for 'Provincial Government' which had been Substituted by the ALO 1937 for 'Local

Government'.] under this Act shall be published in the [Official Gazette] [Substituted by the ALO 1950 for 'Gazette'.] and shall thereupon have effect as if enacted in this Act.

14. Reference to Raja.

- No notification or rules shall be published under sections 4, 12 and 13 until the opinion of the Raja of Benares thereon has been taken and considered by the [State Government] [Substituted by the ALO 1950 for 'Provincial Government' which had been Substituted by the ALO 1937 for 'Local Government'.].

Part III – Recovery of certain Demands

15. Raja of Benares to be deemed as Collector under section 3, Revenue Recovery Act, 1890.

(1)Notwithstanding anything contained in the Revenue Recovery Act, 1890, for the purposes of section 3 of that Act, the Raja of Benares shall be deemed to be a Collector.(2)The Raja may, in accordance with the provisions of the said section send a certificate to the Collector of a district outside the Family Domains for the recovery of an arrear of land revenue or of a sum recoverable as an arrear of land revenue payable to him, and similarly, on receiving a certificate from a Collector of a district outside the Family Domains, the Raja shall proceed to recover the amount stated therein as if it were an arrear of land revenue which had accrued in the Family Domains.