

Punjab Municipal (Executive Officer) Act, 1931

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Act 2 of 1931

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Punjab Municipal (Executive Officer) Act, 1931(Punjab Act No. 2 of 1931)For Statement of Objects and Reasons, see Punjab Gazette, Extra, 1931, dated 24 Feb. 1931 and for report of the select Committee, see ibid 1931, part v,p.4-10. This Act is applicable only in merged areas by virtue of see 88 of the Punjab Reorganisation Act, 1966.Received the assent of His Excellency the Governor on the 2nd July, 1931, and that of His Excellency the Viceroy and Governor-General on the 2nd September, 1931, and was published in the Punjab Gazette, Extra, dated the 18th September, 1931.An Act to provide for the appointment and powers of Executive Officers in municipalities in [Punjab] [Substituted for the words 'East Punjab' by Adaptation of Laws (Third Amendment) Order, 1950.] and for that purpose to amend the Punjab Municipal Act, 1911.Preamble Whereas it is expedient to provide for the appointment and powers of Executive Officers in municipalities in [Punjab] [Substituted for the words 'East Punjab' by Adaptation of Laws (Third Amendment) Order, 1950.] and to amend the Punjab Municipal Act, 1911, for that purpose ; IT is hereby enacted as follows :-

1. Short title, extent and commencement.

(1)This Act may be called the Punjab Municipal (Executive Officer) Act, 1931.(2)It may, by notification be extended by the [State Government] [Substituted for the expression 'Central Government' (which was Substituted for 'State Government' by A.O. 1968) by A. O. 1973. The word 'State' was Substituted for the Word 'Provincial' by Adaptation of Laws Order,1950.] to any municipality in Punjab.(3)It shall come into force on such [date] [It came into force on 16th October, 1931, vide Punjab Government Notification No. 30693, dated the 14th October, 1931, published in Punjab Government Gazette, 1931, Part I- A, p. 454.] as the [State Government] [Substituted for the expression 'Central Government' (which was Substituted for 'State Government' by A.O. 1968) by A. O. 1973. The word 'State' was Substituted for the Word 'Provincial' by Adaptation of Laws Order,1950.] may, by notification, appoint in this behalf.

2. Definitions.

- In this Act unless there is something repugnant in the subject or the context.-(a)"contract" includes a transfer of property ;(b)"the committee" means the municipal committee to which the Act has been, by notification, extended ;(c)"the Municipal Act" means the Punjab [Municipal Act, 1911] [All references to the Punjab Municipal Act, 1911 and various references to sections of the said Act, shall be construed as references to the H. P. Municipal Act, 1968 and the corresponding sections thereof, vide A.O. 1973.].

3. Appointment and Pay of the Executive Officer.

(1)Notwithstanding anything to the contrary contained in sections 26 and 27 of the [Municipal Act] [All references to the Punjab Municipal Act, 1911 and various references to sections of the said Act, shall be construed as references to the H. P. Municipal Act, 1968 and the corresponding sections thereof, vide A.O. 1973.], the Committee shall, by resolution to be passed by not less than five-eighths of the total number of members constituting the Committee for the time being, at the meeting convened for the purpose of appointing an Executive Officer at which no other business may be transacted, appoint, within three months from the date of the notification issued under sub-section (2) of section 1, a person, with the approval of the [State Government] [Substituted for the expression 'Central Government' (which was Substituted for 'State Government' by A.O. 1968) by A. O. 1973. The word 'State' was Substituted for the Word 'Provincial' by Adaptation of Laws Order,1950.], as Executive Officer, for a renewable period of five years on such rate of pay not exceeding one thousand and five hundred rupees inclusive of all allowances, as it may deem fit:Provided that if the appointment is renewed the maximum salary inclusive of all allowances shall not exceed Rs. 2,000.(2)if at the meeting convened for the purpose of appointing an Executive Officer a resolution of appointment cannot be passed through failure of any candidate to secure the prescribed five-eighths majority, the chairman shall, on requisition made in writing by not less than one-third of the total number of members constituting the committee for the time being, convene another meeting to be held within fourteen daysProvided always that such meeting shall be held within three months from the date of the notification issued under sub-section (2) of section 1.(3)The resolution of appointment of an Executive Officer, whether considered at an adjourned meeting or at a meeting convened under sub-section (2), shall not be deemed to be passed unless by the majority prescribed in sub-section (1).(4)If the committee fails to appoint an Executive Officer within three months from the date of notification issued under sub-section (2) of section 1, the [State Government] [Substituted for the expression 'Central Government' (which Was Substituted for 'State Government' by A.O.1968) by A.O. 1973. The word 'State' was substituted, for the word 'Provincial' by Adaptation of Laws Order, 1950.] may appoint any person as Executive Officer of the Committee for a renewable period not exceeding five years on such rate of monthly pay not exceeding Rs. 1,500 inclusive of all allowances as it may deem fit:Provided that if the appointment is renewed the maximum salary inclusive of all allowances shall not exceed Rs. 2,000.(5)When a member of the committee is appointed Executive Officer, he shall on his appointment cease to be a member of the committee.(6)The remuneration of such Executive Officer shall be payable by the committee from the municipal fund.(7)The Executive Officer may at any time be suspended or removed from the office by the State Government and shall be so suspended or removed if at a

meeting of the committee convened to consider the question of his suspension or removal not less than five-eighths of the total number of members constituting the committee for the time being vote in favour of his suspension or removal, and if the Executive Officer is suspended the Committee shall appoint some person with the approval of the [State Government] [Substituted for the expression 'Central Government' (which Was Substituted for 'State Government' by A.O.1968) by A.O. 1973. The word 'State' was substituted, for the word 'Provincial' by Adaptation of Laws Order, 1950.] to officiate as Executive Officer.(8)Leave may be granted to the Executive Officer by the committee, and, whenever such leave is granted for a period exceeding one month, the committee shall appoint some person, with the approval of [State Government] [Substituted, for the expression 'Central Government' (which was Substituted for 'State Government' by A. O. 1968) by A. o. 1973. The word 'State' was substituted, for the word 'Provincial' by Adaptation of Laws Order, 1950.], to officiate as Executive Officer :Provided that if the period of leave does not exceed one month the president or in his absence the Vice-President shall without remuneration exercise the powers of Executive Officer for the period of such leave.(9)Whenever an Executive Officer dies, resigns or is removed the committee shall, within three months of his death,resignation or removal, appoint another person to be Executive Officer in the manner provided in subsections (1) to (3), and if the committee fails to appoint such a person within such period the [State Government] [Substituted, for the expression 'Central Government' (which was Substituted for 'State Government' by A. O. 1968) by A. o. 1973. The word 'State' was substituted, for the word 'Provincial' by Adaptation of Laws Order, 1950.] may appoint such a person in the manner provided in sub-section (4) :Provided that the President or in his absence the Vice-President shall, without remuneration, exercise the powers of Executive Officer until another Executive Officer is appointed.

4. Powers of the Executive Officer.

- In a municipality in which an Executive Officer has been appointed. -(a)the executive power for the purpose of carrying on the administration of the municipality shall, subject to the provisions of this Act and of any rules made under this Act, or under the Municipal Act, vest in the Executive Officer : (b)the powers conferred and duties imposed upon, the functions vested in, and the objections to be tendered and notice given to, the committee under the sections of the Municipal Act mentioned in Schedule I, shall not be exercised or performed by, vested in, or be tendered or given to, the committee, but may be exercised or shall be performed by, or shall vest in, or shall be tendered or given to, the Executive Officer, provided that-(i)the power conferred by section 39 of the Municipal Act shall not be exercised by the Executive Officer and may be exercised by the Committee in respect of the appointment of any Officer or servant of the committee to a post for which the monthly remuneration exceeds [Rs. 25] [Substituted for the words 'Rs 45 in the case of the municipality of Lahore and Rs, 25 in the case of other municipalities' by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order of 1948 (G.G.O.40).], and in respect of the power of removal or dismissal of any officer or servant whose monthly remuneration exceeds Rs. 45, provided that the Executive Officer shall dismiss an employee if required by the committee to do so ;(ii)the power to revise the valuation and assessment conferred by section 65 of the Municipal Act and the power to amend the assessment list conferred by sub-clause (1) of section 67 of the Municipal Act shall be exercised by a sub-committee consisting of the Executive Officer and two members of the committee appointed by the committee for the purpose ;(iii)the power of the Executive Officer to withhold the

grant of a license for any of the trades or purposes specified in sections 121,122 of the Municipal Act or to withhold written permission under section 124 of the Municipal Act may by bye-law be made subject to revision by the Committee ;(iv)the exercise or discharge by the Executive Officer of any power, duty or function thus conferred, imposed or vested in him, shall be subject to such restrictions, limitations and conditions as may be imposed by any rules made by the [State Government] [Substituted for the expression 'Central Government' (which Was substituted, for 'State Government' by A. O. 1968) by A. O. 1973, The word 'State' was substituted, for the word (Provincial' by Adaptation of Laws Order, 1950.], under the Municipal Act upon the exercise or discharge of such power, duty or function by the committee ;(c)the Municipal Act shall be deemed to have been amended in the manner set forth in schedule II ;(d)no bye-laws inconsistent with this Act shall be made by the committee in exercise of the powers conferred by section 31, of the Municipal Act and, if any such be-laws have been made, they shall be deemed to have been cancelled to the extent to which they are thus inconsistent ;(e)if any bye-law made by the committee in exercise of the powers conferred by sections 188, 189, 197 or 198 or in any rule made in exercise of the powers conferred by section 3 of the Hackney Carriage Act, 1879, it is provided that notice shall be given to or licenses granted by the committee, such bye-law or rule shall be deemed to have been amended so as to provide that subject to bye-laws made under the Municipal Act or rules made under this Act such notice shall be given to, or such license granted by, the Executive Officer.

5. The Executive Officer to have powers of Secretary.

- The Executive Officer may exercise all or any of the powers conferred upon the Secretary of the committee by the Municipal Act or by any rule or bye-law made thereunder or under any other Act.

6. Contracts.

(1)Every contract to be entered into by the committee shall be made on behalf of the committee by the Executive Officer : Provided that the Executive Officer shall be bound by any resolution of the Committee fixing terms, rates or maximum prices in the particular case or any class of cases.(2)No contract affecting immovable property or involving a sum exceeding such sum as the committee may fix shall be made by the Executive Officer unless it has been sanctioned by the committee.(3)Every contract made by the Executive Officer shall be reported to the committee within fifteen days of its being made.(4)Every contract made by the Executive Officer on behalf of the committee shall be entered into in such manner and form as would bind him if it were. made on his own behalf and may in like manner and form be varied or discharged :Provided that every contract involving a sum exceeding one hundred rupees or affecting immovable property shall be in writing and shall be sealed with the common seal of the committee.(5)The common seal of the committee shall remain in the custody of the Executive Officer and shall not be affixed to any contract or other instrument except in the presence of the Executive, Officer who shall sign the contract in taken that the same was sealed in his presence.,(6)No contract executed otherwise than as provided in this section shall be binding on the committee :Provided that, when work is given on contract at unit rates and the number of units is not precisely determinable the contract shall not be deemed to contravene the provisions of this section merely by reason of the fact that the pecuniary limits prescribed in 'sub-section (2) or sub-section (4) are eventually. exceeded.

7. [Delegations' of powers by the Executive Officers. [Section re-numbered as sub-section (2) and, sub-section (1) added by Punjab Act, II of 1934, Sec, 2(i).]

(1)The Committee may delegate the powers conferred upon it by section 39 of the [Punjab Municipal Act, 1911], to the Civil Surgeon of the district or to an officer of the Department of Public Instruction.](2)The Executive Officer may with the previous sanction of the committee and shall, if so required by the committee, delegate to any other officer or servant of the committee all or any of the powers, duties or functions conferred or imposed upon or vested in him by sections 4, 5 or 6, except the powers, duties or functions conferred or imposed upon or vested in the committee by sections 63, 64, 65, 66, 67, 68, 72, 73, 74, 75, 76, 77, 80, 81, 82, 189, 193, 195, 195-A, or 229 of the Municipal Act, [or to the Civil Surgeon of the district or to an officer of the [Education Department] [Inserted by Punjab Act, II of 1934, section 2(ii).] the powers under section 39 of the Punjab Municipal Act, 1911. conferred upon him by section 4 :]Provided that,-(a)such delegation shall be in writing and shall specify the name or official designation of the person to whom the delegation is made ;(b)the Executive Officer shall not [except lo the Civil Surgeon of the district or to an officer of the Department of Public Instruction delegate his powers to make appointments to offices carrying a remuneration of more than fifteen rupees per mensem or to remove or dismiss any employee holding an office carrying such remuneration ;] [Inserted, by Punjab Act, II, of 1934, section 2(iii).](c)the Executive Officer shall not delegate his power to make contracts involving an expenditure exceeding one hundred rupees or to acquire, sell or lease immovable property or to dispose of movable property of a value exceeding fifty rupees ; and(d)the exercise or discharge by an officer or servant of any power duty or function delegated to him shall be subject to such restrictions. limitations and conditions, if any, as may be laid down by the Executive Officer, and shall also be subject to his control and revision, but the delegation shall not divest the Executive Officer of such powers, duties or functions.

8. Preparation of Budget.

- Notwithstanding anything contained in the Municipal Account Code, the Executive Officer shall be responsible for the preparation and submission to the committee of the annual estimate of income and expenditure, and, if it is in this opinion necessary or expedient to vary taxation or to raise loans, shall submit his proposals in regard thereto.

9. Attendance at meetings.

(1)The Executive Officer shall have the right to attend all meetings of the committee except a meeting convened for the purpose of considering the question of his suspension or removal and of any sub-committee and to take part in discussions, but shall not have the right to move any resolution or to vote.(2)He shall attend any meeting of the committee or of a sub-committee if required to do so by the President.

10. Control by Government.

- The [State Government] [Substituted, for the expression 'Central Government' (which was substituted, for 'State Government' by A.O. 1968) by A.O. 1973. The word 'State' was substituted, for the word 'Provincial' by the Adaptation of Laws Order, 1950.], the Commissioner and the Deputy Commissioner shall have in respect of the Executive Officer all the powers of control, inspection, requisition, suspension and all other powers whatsoever that are conferred upon them respectively in respect of the committee by chapter XII of the Municipal Act.

11. Power of [State Government] [Substituted, for the expression 'Central Government' (which was substituted, for 'State Government' by A.O. 1968) by A.O. 1973. The word 'State' was substituted, for the word 'Provincial' by the Adaptation of Laws Order, 1950.] to make rules.

- The [State Government] [Substituted, for the expression 'Central Government' (which was substituted, for 'State Government' by A.O. 1968) by A.O. 1973. The word 'State' was substituted, for the word 'Provincial' by the Adaptation of Laws Order, 1950.] may, after previous publication, make rules consistent with this Act and with the Municipal Act to, carry out the purposes of this Act :Provided that before making any rules under the provisions of this section, the [State Government] [Substituted, for the expression 'Central Government' (which was substituted, for 'State Government' by A.O. 1968) by A.O. 1973. The word 'State' was substituted, for the word 'Provincial' by the Adaptation of Laws Order, 1950.] shall, in addition to observing the procedure laid down in section 21 of the Punjab General Clauses Act, 1898, publish by notification a draft of the proposed rules for the information of persons likely to be affected thereby, at least thirty days before a meeting of the [Punjab] [Substituted, for 'East Punjab' by Adaptation of Laws (Third Amendment) Order, 1951.] Legislative [Assembly] [Substituted, for the word 'Council' by the Government of India (Adaptation of Indian Laws) Order, 1937. Now Himachal Pradesh.]. [The [State Government] [Substituted for the words 'The Local Government shall defer consideration , of .such rule until after the meeting of the Punjab Legislative Council next following the publication of the draft in order to give any member of the Council an opportunity to introduce a motion for discussing the draft ' by Punjab Act II of 1934, section 3.], in order to give members of the [Assembly] [Substituted, for the word 'Council' by the Government of India (Adaptation of Indian Laws) Order, 1937. Now Himachal Pradesh.] an opportunity for moving a motion for discussing the draft, shall defer final publication of the rules until after the expiry of the date fixed for consideration of a motion for such discussion, provided that notice of such motion has been given before the first meeting of the Assembly held after the expiry of thirty days from the publication of the draft].

I

[Vide Clause (B) of Section 4]Sections of the Punjab Municipal Act, 1911Sections 39, 63, 64, 65, 66, 67, 73, 74, 75, 76, 77, 80, 81, 82, sub-section (3) of section 96, sub-section (1) of section 97, sections 99, 100, 101, 102, 105, 109, 115, 115-A, 116, 117, 118, 119, sub-sections (1) and (2) of section 121, sections 122, 124, 125, 126, 127, 128, 129, 130, 131, 134, 135, sub-section (1) of section 140, sections

142, 143, clauses (b) and (c) of section 145, sections 149, 154, 156, 166, clause (c) of section 169, sections 170, 170-A, sub-section (2) of section 172, sections 173, 176 [176-A] [Inserted by Punjab Act, XII of 1950, section 8.], 177, 182, sub-sections (1), (2) and (4) of section 189, sections, 191, 195-A, 197-A, 220 and sub-section (3) of section 223.

II

(Vide Clause (C) of Section 4)The [Punjab Municipal Act, 1911,] [See Foot Note u/s. 2(c).] shall be deemed to be amended as follows, namely :-

1. Sections 33, 46 and 47 shall be deemed to be omitted.

2. In section 3 the following new clause shall be deemed to be inserted after clause (5), namely :-

"(5a) 'Executive Officer' means an Executive Officer appointed under the provisions of the Punjab Municipal (Executive Officer) Act, 1931."

3. [In section 35, in sub-section (1) the words "or the Executive Officer" shall be added after the words 'president' where it first occurs ; and in sub-section (2) the words "or the Executive Officer" shall be added after the words "Vice president " ; and in sub-section (3) between the words "the President or" and the words "or during" the words "in his absence" shall be omitted and the words "the Executive Officer or in the absence of the president" shall be added] [Substituted by Punjab Act II of 1934, section 4].

4. [] [Item No, 4 omitted by Punjab Act, II of 1934, section 5.]*****

5. In sub-section (1) of section 66, the words "Executive Officer" shall be deemed to be substituted for the words "signatures of not less than two members of the committee."

6. After sub-section (5) of section 72 the following new sub-section shall be deemed to be added :-

"(6) The enquiry necessary for a decision whether any relief shall be granted under this section shall be held by the Executive Officer who shall make such recommendation to the committee as he may deem proper :Provided that the committee shall not grant any remission of tax unless such remission is recommended by the Executive Officer."

7. In sub-section (2) of section 77, the words "the Executive Officer" shall be deemed to be substituted for the words "a member of the committee or the Secretary,"

8. In sub-section (2) of section 81 the words "Executive Officer" shall be deemed to be substituted for the words "President and Vice-President or the Secretary."

9. In the proviso to section 82 the words "Executive Officer" shall be deemed to be substituted for the words "President or Vice-President."

10. In Section 113 for the words "by notice" the words "order the Executive Officer by notice to" shall be deemed to be substituted and for the words "it to be necessary in order to prevent imminent danger, it shall forthwith take such steps to avert the danger as may be necessary" the following words shall be deemed to be substituted, namely :-

"the Executive Officer that the danger to such persons from any such building, well, tank, reservoir, pool, depression or excavation is imminent, he shall forthwith take such steps to avert such danger as may appear to him to be necessary and as may be approved by the President Provided that any action taken by the Executive Officer under this section shall be reported to the committee at the next following meeting.

11. In section 114 for the words "by notice" the words "order the Executive Officer by notice to" shall be deemed to be substituted and for the words "be necessary in order to prevent imminent danger, the committee shall forthwith take such steps, at the expense of the owner, to avert the danger as may be necessary", the following words shall be deemed to be substituted, namely :---

"the Executive Officer that the danger from any such building, wall, structure, thing, bank or tree is imminent he shall forthwith take such steps, at the expense of the owner, to avert the danger as may appear to him to be necessary and as may be approved by the President :Provided that any action taken by the Executive Officer under this section shall be reported to the Committee at its next following meeting."

12. In sub-section (1), (2) and (4) of section 189 for the word "committee" the words "Executive Officer" shall be deemed to be substituted, and the following words and figures shall be deemed to be added at the end of sub-section (1), namely :-

"Provided that the Executive Officer shall not, without the approval of the committee, sanction the erection or re-erection of any building which involves any projection or encroachment over or upon any land vested in the committee of any land, the property of the [Government] [Substituted for the Word 'Crown' by the Adaptation of Laws Order, 1950.], which has been transferred to the committee for management ;Provided further that if the Executive Officer refuses to sanction the erection or re-erection by any person of any building except on the ground that such erection or re-erection would be in contravention of any bye-law or of any general scheme sanctioned by the Commissioner restricting the erection or re-erection of buildings or any class of buildings, such person may, within fifteen days from the date of the service of the Executive Officer's order refusing to sanction such erection or re-erection, appeal to the committee, and the committee's decision shall, subject to the provisions of sections 22, 232 and 236, be final."

13. [(a) In section 193 the words "or the Executive Officer as the case may be" shall be inserted in the following places, namely :- [Substituted by Punjab Act, It of 1934, section 6.]

(i)in sub-section (1) between the words "the committee" and the word "shall" ;[(i-a) in sub-section (1-a) as inserted by the Punjab Municipal (East Punjab Amendment) Act, 1948, between the words 'the committee' and the words 'to interfere' the word 'committee' and the words 'may refuse' and the words 'the Committee' and the words 'within the time';](ii)in sub-section (2) between the words "the committee" where they first occur and the words "may refuse";(iii)in sub-section (3) between the word "committee" and the word "may", where it first occurs ;(iv)in sub-section (4) between the words "the committee" where they first occur and the words "neglects or omits" ;(b)In the same section the words "or he, as the case may be," shall be inserted in the following places, namely :-(i)in sub-section (2) between the word "it" where it first occurs and the word "deems".(ii)in sub-section (3), between the word, "it" and the word "may" where it last occurs.]

14. [In section 194 the words "or the Executive Officer, as the case may be" shall be inserted after the word "committee," wherever it occurs] [Substituted by Punjab Act, 1.1 of 1934, section.].

15. In section 195 for the word "committee" wherever it occurs, except in the [first] [Substituted for the word 'last' by Punjab Act 1.1 of 1934. section 8. 246 M, P. CODE VDL. VI.1.] proviso, the words "Executive Officer" shall be deemed to be substituted, and the following proviso shall be deemed to be added at the end, namely :-

"Provided further that if any notice is issued by the Executive Officer under this section on the ground that a building has been begun or has been erected in contravention of the terms of any sanction granted or in contravention of any bye-law made under section 190 the person to whom the notice is issued may, within fifteen days from the date of service of such notice, appeal to the committee, and, subject to the provisions of sections 225, 232 and 236, the decision of the

committee shall be final."

16. In the following sub-sections and sections the words "or Executive Officer" shall be deemed to be inserted after the words "the committee" :-

"(a) sub-section (1) of section 203, sub-section (1) of section 204, section 205, section 206, sub-section (1) of section 207, section 208, sub-section (1) of section 210, sub-section (1) of section 211, section 212."(b)In section 208 as amended between the words "it" and "in" the words "or him" shall be deemed to be inserted."

17. For sub-section (1) of section 215 the following sub-section shall be deemed to be substituted :-

"215. (1) Every notice issued under this Act or under any rule or bye-law, by a committee or by its Executive Officer or by the person authorised by the committee or by the Executive Officer, shall be in writing signed by the Executive Officer, or by any person authorised in this behalf, and every such notice and every order made under section 193 may be served on the person to whom it is addressed or delivered or left at his usual place of abode or business with some adult male member or servant of his family or if it cannot be so served may be affixed to some conspicuous part of his place of abode or business."The Proviso to this sub-section shall be deemed to be omitted.

18.

(1)In clause (b) of sub-section (1) of section 225 between the word "or" and the word "under" the words "by a notice from the Executive Officer" shall be deemed to be inserted.(2)In clause (c) of sub-section (1) of section 225 between the word "committee" and the word "under" the words "or an Executive Officer" shall be deemed to be inserted, and for the word "it" shall be deemed to be substituted the word "them".

19.

(1)In section 228 between the words "committee" and "or some person" the words "on its Executive Officer" shall be deemed to be inserted, and between the words "committee" and "in this behalf" the words "or by the Executive officer" shall be deemed to be inserted.(2)In the explanation to section 228 at the commencement between the words "committee" and "may authorise" the words "or its Executive Officer" shall be deemed to be inserted.

20. In sub-section (1) of section 229 between the words "Vice-President" and "Municipal Officer of Health" the words "Executive Officer" shall be deemed to be inserted.