

# The Darjeeling And Kurseong Municipal (Porters) Act, 1883

WEST BENGAL

India

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### Act 5 of 1883

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The Darjeeling And Kurseong Municipal (Porters) Act, 1883 Bengal Act 5 of 1883 [16th May, 1883.] An Act for the Registration and Control of Porters and Dandeewallas in the Darjeeling and Kurseong Municipalities. Preamble. - Whereas it is expedient to provide for the registration and control of porters and dandeewallas in the Darjeeling and Kurseong Municipalities; It is enacted as follows :-

#### 1. Interpretation. -

In this Act the term ["mazdoors"] [Word substituted for the word 'coolies' by W.B. Act 26 of 1954.] shall be limited to porters, and to dandeewallas and other persons employed in carrying, drawing or propelling any vehicle. The term "Commissioners" means the Commissioners of the municipalities of Darjeeling or Kurseong constituted under the Bengal Municipal Act, 1884, or other Act for the time being in force for the regulation of municipalities.

#### 2. Commencement. -

This Act shall come into force in the Darjeeling and Kurseong municipalities respectively when extended thereto by an order of the [State Government] [Words substituted by the Government of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order, 1950. respectively.] published in the [Official Gazette] [Words substituted for the words 'Calcutta Gazette' by the Government of India (Adaptation of Indian Laws) Order, 1937.]. 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 [State Government] [Words substituted by the Government of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order, 1950, respectively.] may, at any time, cancel or modify an order made under this section.

### **3. Publication of order. -**

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.

### **4. Appointment of registering-officer. -**

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

### **5. Licensing and registration of mazdoors. -**

Every [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] personally working for gain within the limits of such municipality shall take out a license and shall thereupon be registered by the registering-officer appointed under the last preceding section, who shall keep a register in which he shall enter the name and residence of every [mazdoor] [such Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] 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 [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] 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.

### **6. Period of license. -**

The year of registration shall commence on the first day of January of each year and every license 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.

### **7. Details of license. -**

Every license granted by the registering-officer shall specify the number of the license, and the name and place of abode and age of the [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] to whom such license is granted, and shall further state whether such [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] is licensed to work as-(a) a monthly or other servant for a fixed period of time exceeding twenty-four hours; or (b) a [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] empowered to work by the job, or for any period of time not exceeding twenty-four hours. Every license shall bear date on the day on which the same shall be granted.

## **8. Licensed mazdoor to wear badge. -**

The registering-officer, shall, at the time of granting the license to any [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] empowered to work by the job, or for any period of time not exceeding twenty-four hours, deliver to him a metal badge, upon which shall be marked or engraved a number corresponding with the number of such license. Every [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] to whom such badge is delivered shall at all times, while waiting for hire or during the performance of his duties as such [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.], or while attending before any Magistrate, carry such badge exposed to view.

## **9. Penalty for omitting to wear badge. -**

Whenever any [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] empowered to work by the job, or for any period not exceeding twenty-four hours, shall omit to wear such badge exposed to view as aforesaid, he shall be liable to a penalty not exceeding five rupees.

## **10. Rates of hire to be fixed and published. -**

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 [mazdoors] [Word substituted for the word 'coolies' by W.B. Act 26 of 1954.] empowered to work by the job, or for any period not exceeding twenty-four hours. 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 [State Government] [Words substituted by the Government of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order, 1950, respectively.] and published in the [Official Gazette] [Words substituted for the words 'Calcutta Gazette' by the Government of India (Adaptation of Indian Laws) Order, 1937.]. 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 [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] at the time of registration.

## **11. Mazdoor entitled to payment according to rates fixed, subject to special agreements for lower rates. -**

Every such [mazdoor] [Word substituted for the word 'coolies' by W.B. Act 26 of 1954.] shall be entitled to receive payment for his hiring in accordance with the rates specified in the order mentioned in the last preceding section : Provided that nothing in this Act contained shall prevent any such [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] 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. Registration of mazdoors when engaged as monthly servants. -**

Any [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] 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 or of the Commissioners-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 [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] from accepting employment,shall be liable to have his license withdrawn or suspended for such period as the Chairman may direct.

## **13. Penalty for certain offences committed by registered mazdoors. -**

Every [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] 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 of 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 [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] 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.

## **14. Penalty for being unlicensed or lending license to another. -**

Any [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] who shall work as such without being duly registered and licensed, and any [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] who, having a license 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.

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

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Whenever the writing on any badge shall become obliterated or defaced, so that the same shall not be distinctly legible, and also whenever any badge shall be proved, to the satisfaction of the registering-officer to have been lost or mislaid, the [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] to whom the license relating to any such badge shall have been granted shall deliver such badge (if he shall have the same in his possession), and shall produce such

license to the registering-officer; and such [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] shall then be entitled to have a new badge delivered to him upon payment of such sum of money, not exceeding one rupee, as the registering-officer shall from time to time appoint.

## **16. Penalty for neglecting to deliver up badge, lending badge, etc. -**

Upon the expiration or other determination of any license granted to a [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] under this Act, such [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] shall deliver such license, and in the case of a [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] empowered to work by the job, or for any period of time not exceeding twenty-four hours, the badge relating thereto, to the said registering-officer ;and every such [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] 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 [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] who shall use, or wear, or detain any badge 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 [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] to whom any badge shall have been delivered as aforesaid, who shall lend such badge to any other person, and every person who shall wear or use the badge of any other [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.];shall for every such offence be liable to a penalty of five rupees, or in default of payment to imprisonment, not exceeding one week.It shall be lawful for the registering-officer, or for any person employed by him for that purpose, to prosecute any [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] so neglecting to deliver up his license or badge at any period, within twelve calender months, after the expiration of the license.

## **17. Penalty for using or having a counterfeit badge. -**

Every [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] or other person who shall, for the purpose of deception, use or wear or have any badge resembling any badge 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.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 badge, or any badge used for the purpose of deception as aforesaid, wheresoever the same may be found, and to deliver the same to the registering-officer.

## **18. Penalty for not depositing lost or unclaimed property. -**

Every [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] 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 any such [mazdoor] [Word

substituted for the word 'coolie' by W.B. Act 26 of 1954.] making default herein shall be liable to penalty not exceeding five rupees, or, in default of payment, to imprisonment not exceeding one week.

## **19. Conviction to be endorsed on mazdoor's license. Penalty for failing to produce license. -**

Whenever any [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] shall be summoned to appear before any Magistrate to answer any charge preferred against him under this Act, he shall carry with him his license, and produce the same if required so to do; and any [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] who shall on such requisition fail, without reasonable cause, to produce such license, shall for every such offence be liable to a fine not exceeding five rupees. It shall be lawful for any Magistrate, on conviction of any [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] of any offence under this Act, to endorse on such licence the nature of the offence, the date of the conviction and the penalty inflicted.

## **20. Revocation or suspension of mazdoor's license on his conviction of any offence. -**

It shall be lawful for any Magistrate before whom any [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] shall be convicted of any offence, whether, under this Act or under any other law in force, to revoke the license of such [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] or to suspend the same for such time as the Magistrate shall think proper, and for that purpose to require the [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] or any other person in whose possession such license and the badge (if any) thereto belonging shall then be to deliver up the same; and every [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] or other person who, being so required, shall refuse or neglect to deliver up such license and such badge, 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; and the Magistrate shall immediately send every license and every badge delivered up to him, under this section to the registering-officer, who shall cancel such license 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 license with the badge (if it shall have come into the possession of the registering-officer) to the [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] to whom it was granted.

## **21. Penalty for refusing to pay legal fare. -**

If any person who shall have hired any [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.] shall refuse to pay such [mazdoor] [Word substituted for the word 'coolie' by W.B. Act 26 of 1954.], 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.

## **22. Jurisdiction. -**

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 [, 1898,] [Figures inserted by Bengal Act 1 of 1939.] as to the amount of fine or imprisonment he may inflict :Provided that the provisions of this section shall not apply to section 12 of this Act.

## **23. Disposal of fines. -**

Omitted by the Government of India (Adaptation of Indian Laws) Order, 1937.