

The Bengal Village Chaukidari Act, 1871

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Act 1 of 1871

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The Bengal Village Chaukidari Act, 1871(Bengal Act 1 of 1871)[Dated 25th January, 1871.]An Act to Amend the [Village-Chaukidari Act, 1870.] [Printed ante.]Preamble. - Whereas it is expedient to amend the provisions of the [Village Chaukidari Act, 1870 (Bengal Act VI of 1870) [Printed ante.] it is enacted as follows:-

1. Act not to apply till chaukidar appointed.

- Nothing in the said Act shall be held to repeal the provisions of section 21, [Regulation 20 of 1817] [The Bengal Police Regulation, 1817.] in any village or union until a chaukidar shall have been appointed therein under the provisions of the said Act.

2. Panchayat in certain cases to make assessment within one month.

- Whenever a panchayat shall have been appointed in any village, the Magistrate may direct that such panchayat shall, within one month after their appointment, make an assessment for the residue of the year according to the year current in the village upon the persons liable to the payment of the chaukidari rate in such village and shall enter the same in a list containing the particulars required to be set forth in the list mentioned in section 16 of the said Act. Such list shall, on its completion, be forthwith published in some conspicuous part of the said village.

3. Commencement of assessment.

- Every assessment so made shall commence and take effect upon the expiration of fifteen days from the publication of such list.

4. Effect of assessment.

- Every such assessment shall be deemed to be an assessment made in pursuance of the provisions of the said Act, and the amounts thereby assessed may be collected and enforced accordingly.

5. Rate payable quarterly instead of monthly.

- In section 21 of the said Act, VI of 1870, the word "quarterly" shall be substituted for the word "monthly" and in Sections 21 and 26 the word "quarter" shall be substituted for the word "month" wherever such word occurs in the said sections; and the said section shall be read and construed as if the words for which they are hereby respectively directed to be substituted.

6. Repeal of new clause.

- [New clause substituted in section 39 of Bengal Act VI of 1870.] Repealed by the Amending Act, 1897 (V of 1897).

7. Construction.

- This Act shall be read with and as part of, the said Act VI of 1870. Appendix-2 Relevant extracts (Rules 110 to 112 and 861) from Bihar Police Manual Village Police

110. Chaukidari parades. - (a) In districts in which the system of parade before Mukhiya or Presidents of Panchayats is in force, chaukidars shall attend at the police-station once a month only. Half the chaukidars of each union shall appear in the first week and the other half in the third week but dafadars shall parade at the police-station each week after attending the parade before the President or Mukhiya. In the month in which chaukidars are paid they shall all attend on the day fixed for pay-parade. Where, under the Village Administration Act, the pay is distributed by the President of the Union or Presiding member, the pay-parade shall be held at the Union Board office.

(b) The following are the rules for holding chaukidari parades in districts where the president system is not in force:-(1) The chaukidars shall be divided into two classes-(i) those belonging to villages within a radius of 16 kms, and (ii) those belonging to villages outside such a radius. The former shall attend once a week, the latter once a fortnight. (2) These two classes shall be further subdivided into two groups. Each group shall be under a dafadar and there shall be 20 or any less number of chaukidars in it. Each chaukidar shall have his group. The odd and even numbers of each group shall attend on separate days in the week, to be fixed by the Superintendent with reference to local conditions, such as hot days etc. and shall be attended by their dafadars. When there are two or

more chaukidars in a village, they shall attend alternately so that there may always be one chaukidar present in the village.(3)Daily parade system. - Where local conditions permit and with the District Magistrate's approval, a system of parades may be arranged by which one or more chaukidars of each circle, according to their size, attend daily at the police-station except in the week in which pay is distributed when the entire force will attend on the date fixed for pay parade. Clause (I) will be observed in forcing daily parades. Dafadars need only attend once a week. They may attend more often if desired, provided such attendance does not involve too prolonged absence from their circles.(4)The advantages of the daily parade system are obvious. Information can be obtained from, and disseminated to, every part of a station area daily; the station area is not denuded twice a week of half its village police and a small body of chaukidars is always available for 'picketing' and other important works.(c)The chaukidari parade shall be held at such an hour as to admit of chaukidars returning to their villages by sunset. And in order to ensure this, chaukidars shall be compelled to be punctual. Parades shall be held in the police station compound, each group being represented by tiles set into the ground, on which are to be recorded the individual number of the chaukidars using them. A masonry platform marked out in squares, and sheds to protect the chaukidars from fud and rain, are recommended. A dafadar's position in the parade shed shall be either in front or on the flank of the men of his circle. Every chaukidar and dafadar attending the parade shall be in uniform.(d)Attendance register and half yearly statement. - The chaukidars having assembled their attendance shall be recorded in the attendance register (P.M Form no. 13) by the officer holding the parade. Chaukidars who show good reason for absence may be allowed to send proxies provided they are physically qualified and of ability. The names of all chaukidars absent from the muster parade without leave or substitute, and whose absence is unexplained shall be entered in the station diary immediately after the parade. A half-yearly statement of the chaukidars absent during the half-year will be sent in P.M. Form no 14 to Superintendent through proper channel.

111. Powers and duties of Village Police. - (a) The powers and duties of dafadars and chaukidars are prescribed in the following Acts and rules :-

(A)In those districts in which Part III of the Bihar and Orissa Village Administration Act, 1922 is in force.-Section 27 and Schedule III of the said Act and rules 6 to 10 of the Bihar and Orissa Chaukidari Rules, 1923.(B)Where the Village Administration Act is not in force - (1) Section 21 of the Chota Nagpur Rural Police Act, 1914, and rules 79-81 made under that Act in those districts to which this Act applies.(2)In other districts section 39, Bengal Act VI of 1870 and paragraphs 141 -163 of the Chaukidari Manual, 1907.(b)A register of village chaukidars shall be maintained at all police-stations in the forms noted below :-(i)For district where the Acts in A and B (2) of clauses (a) are in force, Register 2 of Chaukikari Manual, 1907,(ii)For district where the Act in B (i) of clause (a) is in force, Register I of Rules made under the Chota Nagpur Rural Police Act, 1914.

112. Information and reports. - (a) After recording attendance, the officer holding the parade shall question those present as to whether they have any report to make on the following points:-

(2) Epidemics. (2) Fires; (3) The state of crops. (4) Cattle-disease; (5) Obstruction to telegraph wires; (6) Injury to survey pillars, Government trees, bridges, embankments, etc; (7) The arrival of foreigners, criminal gangs or ever wandering gangs in their villages. All chaukidars having information to give on any particular subject shall stand up and remain standing, until their information has been recorded. (b) The above officer shall then ascertain if any dafadar or chaukidar has any information to give as to (1) the movements of bad characters belonging to his villages, (2) visits of suspicious persons or registered bad characters, (3) Person suspected of cattle poisoning, (4) the existence of any quarrel likely to lead to breach of the peace. In case there is any other matter or subject of which they are unlikely to speak out before their followers they shall be ordered to fall out and their information elicited from them out of hearing or the rest so that they may understand that it will be kept as far as possible confidential and other shall not be able to know it. These enquiries shall always be made by the officer-in-charge, when he is present at the police-station, and the fact noted in the station diary. The routine questions mentioned in sub-rule (a) above may be put by the Junior Sub-Inspector or the Assistant Sub-Inspector under his supervision provided if the officer-in-charge does not himself question the chaukidars who have information to give privately, he shall explain his reason for not doing so in the station diary. (c) Instruction to chaukidars. - Chaukidars shall be instructed carefully as to their powers and duties (Rule III), articles that are exciseable and the quantities of those a person can legally keep. Chaukidars shall be deputed to identify local and bordering criminals and taught the descriptions of absconded offenders. The contents of hue and cry notices (Rules 151-155), descriptions of missing cattle, details of stolen property and unidentified recovered property, notices of rewards offered and all other important matters shall be read out to them and they shall be encouraged, by liberal recognition of good work, to take a real interest in their duties.

861. Rewards to chaukidars. - (a) The rules for rewarding chaukidars will be found in the Chaukidari Manual. Police Officers of all ranks should bear in mind that without judicious rewards it is impossible to expect chaukidars to take interest in their work or to give proper assistance to station officer. Rewards, to be effective, must not only be given with discrimination but with utmost promptitude. In order to facilitate the prompt payment of rewards, a permanent advance shall be made over to the Superintendent, from which he may make a subsidiary advance upto Rs. 50 to each officer-in-charge, police-station.

(b) The Superintendent may empower sub-inspectors to grant and pay rewards not exceeding Rs. 5 in anticipation of his sanction. The fact that this payment has been made in anticipation of sanction should be noted in column 5 of Form H of the Chaukidari Manual. Advances to Sub-Inspectors are not to be regarded as separate advances, but as part of the permanent advance of the Superintendent, from which they should be recouped. The Superintendent will acknowledge the whole advance under rule 112 of Bihar Financial Rules, Volume I. When his advance is running low; the Sub-Inspector will apply to the Superintendent for recoupment, supporting his application by receipts for rewards given. The Superintendent will use these receipts as vouchers in support of his

own bill for recoupment of his permanent advance at the treasury.(c)All rewards must be distributed publicly at police-station on parade days. Rewards not exceeding Rs. 5 shall be distributed by the officer-in-charge of the police-station, and rewards exceeding Rs. 5 by a gazetted officer provided that, if it is likely to cause delay or more than a month in payment, the reward may be distributed by the officer-in-charge of the police-station.(d)When Village-police, including sardars in the Santal Parganas, are called away from their regular beats on special duties, such as watching the routes of the President, the Prime Minister or the Governor, they should get an allowance of three rupees (Rs.3) a day from the time they leave their respective villages to the time they return The full advances will be admissible even for a part of a day spent on journey or on duty. The cost should be treated as an item of 'other charges' and should be met from the provision made in the Police Budget under the orders of the Inspector-General.Appendix-3Relevant extracts from Bihar & Orissa Village Administration Act, 1922.Village Police

22. Extent of Part III. - No provision contained in this Part shall apply to any Union unless and until it has been expressly extended thereto by the State Government by notification.

23. Appointment of dafadars and chaukidars. - Subject to the control of the Commissioner, the District Magistrate shall from time to time determine after consideration of the proposal of the Union Board the number of dafadars, if any, and chaukidars to be employed within each Union, the salaries to be paid to them and the nature and cost of their equipment.

24. Payment of salaries, etc. of dafadars and chaukidars. - The salaries and cost of equipment of dafadars and chaukidars shall be paid by the Union Board, and the dafadars and chaukidars shall receive their salaries and equipment at such time and place and in such manner as may be prescribed.

(2)A dafadar or chaukidar shall receive from the Union Fund one anna for every summons served by him.

25. Appointment and dismissal of dafadars and chaukidars. - (1) The Union Board shall, when a vacancy exists, nominate a person to be a dafadar or a chaukidar under this Act, and the State Government shall, if satisfied with such nomination, appoint such nominee :

Provided that, if the Union Board fails within a reasonable time to nominate a person to be a dafadar or a chaukidar, or if the (State) Government is not satisfied with such nomination, the State Government shall appoint any person whom it thinks fit to be a dafadar or chaukidar.

26. Power to fine dafadars and chaukidars. - (1) The Union Board may punish any dafadar or chaukidar who is guilty of any misconduct in his office or neglect of duty with fine not exceeding one-quarter of a month's salary.

(2) The District Magistrate may revise any order passed by the Union Board under sub-section (1) and may punish any dafadar or chaukidar who is guilty of misconduct or neglect of duty with a fine not exceeding one month's salary.

27. Powers and duties of dafadars and chaukidars. - (1) Every chaukidar shall exercise the following powers and perform the following duties :-

(i) he shall give immediate information to the officer in charge of the police-station within the limits of which the Union is situated and to the President of the Union Board, of every unnatural, suspicious or sudden death which may occur, and of any offence specified in Schedule III which may be committed within the Union, and he shall keep the police and the President of the Union Board informed of all disputes which are likely to lead to a riot or serious affray; (ii) he shall arrest- (a) all proclaimed offenders; (b) all persons whom he may find in the act of committing any offence specified in Schedule III; (c) any person against whom a hue and cry has been raised of his being concerned in any offence specified in Schedule III whether such offence has been or is being committed within or outside his Union; (d) any person in whose possession anything is found which may reasonably be suspected to be stolen property, or who may reasonably be suspected of having committed an offence with reference to such thing; and (e) any person who obstructs a police officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody; (iii) he shall, to the best of his ability, prevent, and he may interpose for the purpose of preventing, the commission of any offence specified in Schedule III; (iv) he shall assist private persons in making such arrests as they may lawfully make, and he shall report such arrests without delay to the officer in charge of the aforesaid police-station; (v) he shall observe and from time to time report to the said officer the movements of all bad characters within the Union; (vi) he shall report to the said officer, the arrival of suspicious characters in the neighbourhood; (vii) he shall report in such manner as may be prescribed, by the District Magistrate, the births and deaths which have occurred within the Union; (viii) he shall supply any local information which the District Magistrate or any police officer may require; (ix) he shall obey the orders of the Union Board in regard to keeping watch within the Union and in regard to other matters connected with his duties as chaukidar; (x) he shall give immediate information to the Union Board of any encroachment on, or obstruction to, any road within the Union and of any damage to any property under the control of the Union Board; (xi) he shall assist the person collecting the Union tax in making such collection; (xii) he shall serve such processes upon persons resident within the Union as may be prescribed by rules under this Act, and (xiii) he shall carry out such other duties as may be entrusted to him from time to time in accordance with this Act or any rules made thereunder. (2) Every dafadar shall exercise all the powers conferred on a chaukidar under sub-section (1) and shall perform such duties as may be imposed upon him by rules made under this Act.

28. Procedure on arrest by dafadar or chaukidar. - Whenever a dafadar or chaukidar arrests any person under section 27, he shall forthwith take the person so arrested to the police station within the limits of which the Union is situated;

Provided that, if the arrest is made at night, such person shall be so taken, as soon as convenient, on the following morning; Provided further that the person so arrested shall be informed, as soon as may be, of the grounds of such arrest and shall be produced before the nearest Magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the Magistrate; and no such person shall be detained in custody beyond the said period without the authority of a Magistrate.

29. Fines to be credited to District Chaukidari Reward Fund. - All fines realised from a dafadar or chaukidar under section 26 shall be credited to District Chaukidar Reward Fund, the control over which shall rest with the District Magistrate.

30. Imposition of chaukidar tax by Union Board. - (1) The Union Board shall impose yearly on the owners and occupiers of buildings within the Union a tax equal to the amount required, after deduction of the contribution, if any, made by the State Government in this behalf, for the salaries and equipment of the dafadars and chaukidars of the Union together with a sum of not more than fifteen per centum above such amount to meet the expenses of collections and losses due to the non-realization of the tax from defaulters.

(2) The proceeds of the tax imposed under this Section shall be credited to a fund to be called the "Union Chaukidari Fund:.

31. Nature of assessment. - (1) The tax imposed under the preceding Section shall be an assessment according to the circumstances and the property within the Union of the owners and occupiers of buildings :

Provided that in the Chota Nagpur Division every proprietor or tenure holder who has khas cultivation within the Union shall also be liable to assessment. (2) The amount assessed on any person in any one year shall not exceed twelve rupees. (3) Any person who in the opinion of the Union Board is too poor to pay half an anna a month shall be altogether exempt from the payment of the tax.

32. Procedure of assessment and revision thereof by the Union Board. - The assessment for the imposition of the tax under Section 30 shall be made in accordance with rules prescribed under this Act and any person dissatisfied with the amount at which he has been assessed may, within such time as may be prescribed, apply to the Union Board, either orally or in writing, for a revision of the assessment, and the Union Board may amend the assessment or confirm the same.

33. Power of District Magistrate to revise assessment. - The District Magistrate may, at any time, call for the paper containing the assessment of the tax imposed under Section 30, and may, after such inquiry as may be necessary pass such order thereon as he may think proper.

34. Arrear to be recovered by distraint and sale of movable property of defaulter. - The payment of the tax shall be made in accordance with rules prescribed under this Act and, in case of default of any such payment, the President of the Union, or, if so directed by him the Vice-President, shall cause the chaukidar or any other person authorised in writing by the President or the Vice-President to levy, by the distraint and sale of a sufficient portion of the movable property of the defaulter, the amount of his arrear, together with a sum equal to half the amount of such arrear, by way of penalty.

35. What property may be distrained and sold for arrears. - (1) The distraint and sale of such movable property shall be conducted in accordance with rules prescribed under this Act.

(2) All goods and chattels, except plough cattle and tools and implements of trade and agriculture, found in or upon any building or land occupied by any defaulter, shall be deemed to be his property, and shall be liable to be distrained and sold for the recovery of the arrear and also the penalty due under section 34. (3) If any of the goods and chattels liable to indemnify the owner of such goods, and chattels for any damage he may sustain by reason of such distress or by reason of any payment he may make to avoid such distress or any sale under the same. (4) State Government may, by rule, with respect to Union Boards generally or to any Union Board or class of Union Boards in particular, except any movable property from distraint and sale.

36. Distraint and sale of property beyond limits of the Union. - If the Union Board is unable to recover under Section 35 the amount due for the arrear of tax and the penalty the District Magistrate may, on the application of the

Union Board, issue his warrant to any officer of his court for the distress and sale of any movable property or effects belonging to the defaulter within any part of his jurisdiction or for the distress and sale of any movable property belonging to the defaulter within the jurisdiction of any other Magistrate exercising jurisdiction within Bihar (and Orissa); and such other Magistrate shall endorse the warrant so issued and cause it to be executed, and the amount, if levied, to be remitted to the Magistrate issuing the warrant, who shall remit the same to the Union Board.

37. Irregularities not to avoid distraint. - No distress levied by virtue of this Act shall be deemed unlawful, nor shall any person making the same be deemed a trespasser on account of any defect, irregularity or want of form in any assessment, notice, nor shall such person be deemed a trespasser from the commencement on account of any irregularity afterwards committed by him, but all persons aggrieved by such irregularity may recover full satisfaction for any special damage sustained by them, in any court of competent jurisdiction, subject to the provisions of section 92.

38. Distress not to be levied after fifteen months. - No arrears of any tax payable under this Act shall be recovered by distress after the expiration of fifteen months from the date on which the same shall have become due.

39. Default in payment of chaukidars. - (1) If at any time in a Union to which the provisions of this Part have been extended, the District Magistrate is satisfied that the whole or any portion of the salaries, or of the cost of equipment of dafadars & chaukidars is in arrear, the District Magistrate may, after considering any objection that may be made by the Union Board, appoint such person or persons as he may consider necessary to realize any sum so due, together with the incidental cost (if any) of collecting it.

(2) Any person so appointed may realize any such sum and cost from the balance at the credit of the Union Chaukidari Fund or by the collection of the outstanding portion of the tax as assessed by the Union Board, or, if the amount so collected is insufficient, by the imposition and collection of a supplementary assessment. (3) A person so appointed shall exercise all the powers vested in the Union Board for the assessment and collection of the tax. (4) The amount so collected under sub-section (2) shall be disbursed in the payment of the sum and the cost referred to in sub-section (1), and the balance, if any, shall be paid to the Union Chaukidari Fund.

40. Liability of certain proprietors. - Whenever in the Chota Nagpur Division any proprietor or tenure-holder holds subject to the condition, express or implied, of maintaining the chaukidars within his estate or tenure, he shall be liable to pay to the Deputy Commissioner such sum as the Deputy Commissioner may determine, and the Deputy Commissioner shall pay the sum so determined to such Union Board or Boards and in accordance with such allocation as he may think fit.