

The Odisha Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

No.

Date : 13th May 1952

Orissa Act V of 1948

*THE ORISSA LOCAL FUND AUDIT ACT, 1948

No.5341-L.S.G.-In exercise of the powers conferred by sub-section(3) of Section 1 of the Orissa Local Fund Audit Act, 1948 (Orissa Act V of 1948), the Governor of Orissa is pleased to appoint the 1st day of June, 1952 as the date with effect from which the said Act shall come into force in the State of Orissa.

WHEREAS it is expedient to consolidate and unify the law relating to the audit of local funds in the Province of Orissa and to provide for a uniform procedure for the audit of local funds therein;

It is hereby enacted as follows:-

1. Short title, extent and commencement - (1) This Act may be called the Orissa Local Fund Audit Act, 1948

(2) It extends to the whole of the Province of Orissa

(3) It shall come into force on such date as the Provincial Government may, by notification, appoint.

2. Definition- In this Act, unless there is anything repugnant in the subject or context-

(a) "*auditor*" means an auditor appointed under this Act ;

¹[(b) "*Examiner of Local Accounts*" means the Examiner of Local Accounts appointed under Section 4 and includes any officer for the time being performing the duties of the Examiner of Local Accounts; and]

(c) "*Local fund*" means any fund not being a Cantonment fund to the control or management of which a Local Authority is legally entitled and any cess, rate, duty, or tax which such authority is legally entitled to impose and any property vested in such authority.

3. Liability of Local Authority to submit its accounts to audit- ¹[(1)]
Notwithstanding anything contained in any enactment by which a Local authority

* Published vide Notification No.5341-L.S.G.-I Dated, 13.05.1952

1. Substituted vide Orissa Act 26 of 1976, Dated, 03.05.1976

2. Renumbered vide Orissa Gazette Ext. No. 1891, Dated, 01.10.2012

is constituted, the accounts of any Local Authority whose accounts are declared by the Provincial Government by notification to be subject to audit under this Act, shall be subject to audit in all respects in the manner provided by or under this Act and any provision in any such enactment or in any bye-law or rules made under such enactment inconsistent with or repugnant to the provision of this Act or of any rule made thereunder shall, to the extent of such inconsistency or repugnancy, be deemed to have been repealed by this Act.

²[(2) Save as otherwise provided in section 8, where the audit of accounts of any Urban Local Body and Panchayati Raj Institution is undertaken by the Comptroller and Auditor-General under section 20 of the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act, 1971, he shall have the right to comment on and supplement to the report of the Examiner of Local Accounts, and the report of such audited accounts shall be laid by the State Government, as soon as may be after it is received, before the Legislature of the State.

Explanation - For the purpose of this section, the expression "Urban Local Body" and "Panchayati Raj Institution" shall respectively mean a "Municipality" as defined in clause (e) of article 243-P of the Constitution of India and a "Panchayat" as defined in clause (d) of article 243 thereof.]

¹[4. Appointment of Examiner, Deputy Examiner and Assistant Examiner of Local Accounts and Auditors— (1) The State Government may, by notification, appoint an officer of the State Government to be the Examiner of Local Accounts and they may also appoint such number of Deputy Examiner of Local Accounts and Assistant Examiner of Local Accounts as they deem necessary.

(2) The Deputy Examiner of Local Accounts and the Assistant Examiner of Local Accounts shall exercise such powers and perform such functions of the Examiner of Local Accounts as the State Government may, by notification, assign.

(3) The Examiner of Local Accounts may, with the approval of the State Government, appoint such number of Auditors of Local Fund as he considers necessary.]

5. Auditor to be deemed to be public servant- An auditor shall, for the purpose of the powers and duties conferred and imposed on him by or under this Act, be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.

6. Power of auditor to require production of documents and attendance of persons concerned, etc.- For the purpose of any audit, an auditor may-

(a) by summons in writing or by letter require the production before him of any document which he may deem necessary for the proper conduct of the audit;

1. Substituted vide Orissa Act 26 of 1976, Dated, 03.05.1976

2. Inserted vide Orissa Gazette Ext. No. 1891, Dated, 01.10.2012

(b) by summons in writing require a whole-time paid servant of the Local Authority accountable for, or having the custody or control of any such document to appear in person before him at any such audit; and

(c) require any such person to make and sign a declaration with respect to such document or to answer any question or prepare and submit any statement relating thereto.

7. Penalty for disobeying direction of auditor- Any person who wilfully neglects or refuses to comply with any direction of the auditor under Section 6 shall be liable on conviction before a Magistrate to a fine not exceeding one hundred rupees:

Provided that no proceedings under this Section shall be instituted except with the previous written sanction of the Examiner of Local Accounts.

8. Audit Report- As soon as possible after the completion of the audit the auditor shall prepare a report on the accounts audited and examined and shall deliver such report to the Examiner of Local Accounts who shall forward a copy thereof to the Local Authority concerned.

9. Power of Examiner of Local Accounts to surcharge or charge illegal payment or loss incurred by negligence- (1) The auditor 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 or loss which appears to have been incurred by the negligence or misconduct of any person; and the amount of any sum which ought to have been but is not brought into account by any person.

(2) After considering such report the Examiner of Local Accounts may-

- (a) order that any payment referred to in clause (a) of sub-section (1) shall be allowed or that no further action shall be taken as regards any amount referred to in clause (b) or clause (c) of the said sub-section, or
- (b) serve a notice on the person making or authorizing any such payment or the person responsible for or failing to account for such amount, requiring him to show cause within one month why such payment should not be surcharged or such amount should not be charged against him.

(3) After considering such cause as may be shown by any such person, the Examiner of Local Accounts may surcharge such payment on the person making or authorizing such payment or charge the amount of any loss or deficiency against the person responsible therefor or any amount which ought to have been but is not brought into account against the person failing to account for such amount and shall in every such case certify the amount due from such person.

10. Recovery of surcharge and charges- (1) Any amount certified under section 9 as due from any person shall, if not paid by such person within one

month next after the date of the certification thereof, be recoverable from him as an arrear of land revenue under the provisions of the law for the time being in force for the recovery of arrears of land revenue.

(2) For the purposes of this Act, the Collector shall be deemed to be the person to whom the amount recoverable under sub-section (1) shall be payable.

(3) The Collector shall pay all certified amounts received by him under sub-section (2) to the local authority concerned.

11. Appeal from order of surcharge or charge- (1) Any person aggrieved by any surcharge or charge made, may, within fourteen days from the date of communication of such order, appeal to such authority as the Provincial Government may appoint in this behalf to set aside such surcharge or charge and the authority so appointed after making such enquiries as it considers necessary, may pass such orders as it thinks fit.

(2) Pending the disposal of such appeal all proceedings for recovery of the certified amount shall be stayed.

12. Payment of expenses incurred in civil suit- (1) All expenses incurred by the Collector in any suit that may be brought in a Civil Court under the provisions of the law for the time being in force for the recovery of arrears of land revenue shall, in the first instance, be borne by the Provincial Government.

(2) The Provincial Government may recover from the local authority concerned such amount as may be decreed as cost in favour of the local authority and any amount so recoverable shall be paid to the Provincial Government by such local authority.

13. Charges in respect of audit to be payable out of local funds- All expenses incurred by a local authority in complying with any requisition of the auditor under clause (b) of Section 6 shall be payable out of its local funds.

14. Powers to make rules- (1) The Provincial Government may, subject to the condition of the previous publication, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for -

- (a) the manner in which a local authority shall keep accounts in cases in which no such provision or, in the opinion of the Provincial Government, insufficient provision is made by the enactment under which such authority is constituted ;
- (b) the powers and duties of auditors and the procedure to be followed by them for conducting an audit and the times and places at which such audit may be conducted;
- (c) for the recovery by the Provincial Government from a local authority of expenses incurred by the Collector under section 10 or the Provincial Government under section 12; and
- (d) the powers and duties of the Examiner of Local Accounts.

15. Repeals and Savings- (1) The enactments specified in the Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

(2) The provisions of this Act shall not apply to any case, suit, appeal, revision petition or any other proceedings that may be pending at the commencement of this Act before an auditor, or the Civil Court, or the Provincial Government and the law in force immediately before the commencement of this Act shall, notwithstanding any repeal effected by this Act, continue to apply to such cases, suits, appeals, revision petitions and other proceedings.

SCHEDULE

(See Section 15)

Enactments Repealed

Year	Number	Short title	Extent of repeal
(1)	(2)	(3)	(4)
1952	II	The Bihar and Orissa Local Fund Audit Act, 1925	The Whole
1936	I	The Orissa Laws Regulations, 1936	The following entry in part-II of the Fourth Schedule, namely:--
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"1925.	II	The Bihar and Orissa Local Fund Audit Act, 1925.	The area transferred to Orissa, the Central Provinces"