

ACT No. XXI OF 1867.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 8th March 1867.)

An Act for the Licensing of Professions and Trades.

WHEREAS it is expedient that persons exercising professions and trades in British India should take out licenses and pay for the same; It is hereby enacted as follows:—

Preamble.

Preliminary.

1. In this Act—unless there be something repugnant in the subject or context—

Interpretation clause.

“British India” means the territories which are or may be vested in Her Majesty or Her Successors by the Statute 21 & 22 Vic., cap. 106 (*An Act for the better Government of India*), other than the Settlement of Prince of Wales’ Island, Singapore and Malacca:

“British India.”

“Magistrate” means any person exercising the powers of a Magistrate, or of a Subordinate Magistrate of the first class, and includes a Magistrate of Police and a Justice of the Peace:

“Magistrate.”

Number.
Gender.

Words in the singular number include the plural and *vice versa*. Words denoting the masculine gender include females:

And in every part of British India in which this Act shall operate, “Local Government” shall mean the person authorized by law to administer Executive Government in such part, and shall include a Chief Commissioner.

“Local Government.”

Saving of other laws relating to licenses or taxes.

2. Nothing in this Act shall be construed to affect the provisions of any other law relating to licenses or taxes.

3. Nothing

Act not to apply to certain Officers of the Army and Police, nor to cultivators of land.

3. Nothing in this Act shall be deemed to apply to—

(1). Officers of Her Majesty's Forces or of Her Majesty's Indian Forces, whose pay and allowances do not exceed Rupees 6,000 per annum, and who shall not be in Civil employment other than employment in the Police :

(2). Non-Commissioned Officers and Privates of either of the said Forces, and who shall not be in Civil employment other than employment in the Police :

(3). Officers of any Police Force whose pay and allowances shall be less than the pay and allowances of a Captain of Infantry in Her Majesty's Forces in India :

(4). Persons in the employment of Government whose annual receipts shall be less than Rupees 1,000 :

nor to any cultivator of land as such in respect of the sale of the produce of his land, when he shall not keep a shop for the sale of such produce.

4. It shall be lawful for the Governor General of India in Council from time to time, by order, wholly to exempt from the operation of this Act any part of British India, or any tribe, class of persons or person dwelling or personally working for gain or carrying on business in British India or in any such part ; or to authorize, in the case of any such class or person, all or any part of the sums or sum paid by such class or person under the provisions of any Municipal or other local law for the time being in force, on or before the first day of May in each year, as a tax, by way of charge for a license or otherwise, on the exercise of any trade or profession, to be deducted from the sums or sum which, in the absence of such authorization, would have been payable under the provisions of this Act. All orders and revocations made under this Section shall be published in the *Gazette of India* and also in the local *Gazette*.

Power to exempt from operation of Act.

Licenses.

5. Every person who shall, on and after the first day of May 1867, exercise any profession or trade in British India, and whose annual profits shall be Rupees 200 or upwards, shall take out a license and shall pay for the same such annual sum as is mentioned in Schedule

Annual licenses to be taken out.

A to this Act annexed: provided that, for any such license which shall be granted between the first day of November in each year, and the thirtieth day of April next ensuing, there shall be paid only one-half of such sum. Subject to the provision contained in Section 3 of this Act, every person holding any office or employment of profit shall be deemed to be, in respect of the salary, fees, wages, perquisites and profits of such office or employment, a person exercising a profession or trade within the meaning of this Act.

6. Every license under this Act shall be granted by the Collector of Land Revenue of the district or place in which the person requiring such license shall exercise his profession or trade: provided that, if such person shall exercise his profession or trade in more than one district or place, the license shall be granted by the Collector of the district or place in which his principal place of business in British India shall be situate. Every such license shall be signed by the Collector granting it, or by any Assistant or Deputy Collector under the Collector's orders, and the Courts shall take judicial notice of such signature.

Particulars to be specified in the license.

7. Every such license shall specify—

- (1). The date of the grant thereof:
- (2). The name and profession or trade of the licensee:
- (3). The sum paid for the license: and
- (4). The place or places where the licensee intends to exercise his profession or trade for the ensuing year;

and shall be received in evidence as *prima facie* proof of all matters contained therein.

8. Every such license shall have effect and continue in force from the day of the date thereof till the thirtieth day of April next after the day of the granting thereof.

9. Every person to whom any such license shall have been granted and who shall desire to continue to exercise his profession or trade after the expiration thereof, shall take out a fresh license for that purpose for the following year, to expire on the day appointed in the last preceding Section, and shall renew the same so long as he shall desire to continue to exercise such profession or trade.

10. The

10. The Collector shall from time to time determine under which of the classes mentioned in Schedule A to this Act annexed every person to whom a license may be granted by him as aforesaid shall be assessed.

Collector to determine class under which licensee is to be assessed.

List of Licensees.

11. As soon as may be after the first day of May 1867 and the same day in every subsequent year, the Collector shall prepare a list of the persons licensed under this Act in the district or place aforesaid. Such list shall state—

Collector to prepare annual list of licensees.

- (1). The profession or trade of each of the persons therein named:
- (2). The class under which he is assessed: and
- (3). The sum paid for his license.

Such list shall be filed in the office of the Collector, and the list, or such part or parts thereof as he shall think fit, shall be filed in such other places as the Collector shall direct, and shall be open to public inspection at all reasonable times, without the payment of any fee.

12. Any person named in such list and objecting to the class under which he is assessed, shall be at liberty, within thirty days after the filing of the said list, to apply by petition to the Collector in order to establish his right to have his name transferred to another class or altogether removed from the list. The petition shall bear a stamp of eight annas: it shall be in the form contained in Schedule C to this Act annexed, or as near thereto as circumstances will admit; and the statements therein contained shall be verified by the petitioner or some other competent person in manner required by law for the verification of complaints. Whoever makes a statement in any such petition which is false, and which he either knows or believes to be false, or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

Objection to list.

Petition of objector.

13. The Collector shall fix a day for the hearing of the petition, and, on the day so fixed, shall hear such petition and pass such order thereupon as to him shall seem fit. Any person dissatisfied with such order may, within fifteen days from the date thereof, present an appeal in writing to the Commissioner of Revenue of the Division

Hearing of petition.

Appeal from order on petition.

Division, whose decision upon such appeal shall be final. Every appeal preferred under this Section shall bear a stamp of one Rupee, and shall be accompanied by a copy of the petition, the Collector's order thereon, and all other documents (if any) connected with the case.

14. The Collector or Commissioner may summon any person whom he shall think able to give evidence for the purpose of enabling him to determine under which of the said classes the petitioner should be assessed, and may examine on oath or affirmation the person so summoned and the petitioner, and may require each of them to produce any documents in his possession or power relating to the petitioner or to the amount of the annual profits accruing from his profession or trade. In Sections 193 and 228 of the Indian Penal Code, the words "judicial proceeding" shall be taken to include any proceeding under this Act.

Power to summon persons to give necessary information.

Sections 193 and 228 of Penal Code to apply to proceedings under this Act.

Penalties.

15. If after the said first day of May 1867, any person shall exercise his profession or trade without having taken out a license as required by this Act, he shall be liable, on conviction before a Magistrate, to a penalty not exceeding five times the amount which in the judgment of the Magistrate would have been payable by such person in respect of a license duly taken out as aforesaid.

Penalty for carrying on business without a license.

16. Every person required by this Act to take out a license, who shall without reasonable excuse neglect or refuse to produce and show his license when required so to do by an officer generally or specially empowered in writing by the Collector to make such requisition, shall, on conviction before a Magistrate, be liable to a penalty not exceeding one hundred Rupees.

License to be produced on demand.

17. All penalties imposed under this Act may be recovered, if for offences committed outside the local limits of the towns of Calcutta, Madras or Bombay, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act regulating the Police of such towns in force for the time being.

Mode of recovering penalties.

18. No

18. No person shall be proceeded against for any offence under Section 15 or Section 16 of this Act except at the instance of the Collector.

Prosecution to be at instance of Collector.

Miscellaneous.

19. On and after the thirtieth day of April 1867, every Trading Company or Association in British India whose stock or funds is or are divided into shares and transferable, whether such Company or Association be incorporated or not, and whether the principal place of business of such Company or Association be situate in British India or not, shall take out a license and pay for the same such annual sum as is mentioned in Schedule B to this Act annexed. Provided that, for any such license which shall be granted between the first day of November in each year and the thirtieth day of April next ensuing, there shall be paid only one-half of such sum. When such Company or Association shall have taken out and paid for a license as aforesaid, no person shall be deemed to exercise a trade within the meaning of this Act solely by reason of any share or interest in such Company or Association. All the other provisions of this Act applicable to individuals shall apply, *mutatis mutandis*, to such Companies or Associations.

Provision as to Trading Companies.

20. Every person holding any paid office, employment or commission under Her Majesty or under the Government of India, or under any Local Government, other than the persons exempted under Section 3 or by order under Section 4 of this Act, shall be deemed to exercise a profession within the meaning of this Act; provided that he shall not be required to take out a license under this Act; and the sum which but for this proviso he would have paid for a license shall be deducted from his pay on the first day of June 1867 and on the first day of May in every subsequent year by the Examiner of Claims or other proper officer, and shall be deemed to be a tax raised under this Act. Nothing in the former part of this Section shall apply to any person holding any such office, employment or commission, and permitted, nevertheless, to exercise a profession or trade; but in determining under which of the classes mentioned in the said Schedule A any such person shall be assessed, the Collector shall take into consideration the amount of the pay which such person shall receive in respect of such office, employment or commission.

Provision as to Government officials.

21. All

Payment of taxes raised and penalties recovered under this Act.

21. All taxes raised and penalties recovered under this Act shall be paid to the credit of the Government of India, or as such Government shall from time to time direct.

Powers of Collector and Commissioner under this Act may be exercised by other officers.

22. All or any of the powers and duties conferred and imposed by this Act on a Collector, an Assistant or Deputy Collector, and a Commissioner of Revenue, may be exercised and performed by such other officers or persons as the Local Government shall from time to time appoint in this behalf. Every person shall be legally bound to furnish information to any officer or person so appointed when required by him to do so.

Local Government empowered to make rules.

23. The Local Government may, from time to time, with the previous sanction of the Governor General of India in Council, make rules for the guidance of officers in matters connected with the enforcement of this Act, provided that such rules are not inconsistent with any of the provisions herein contained.

SCHEDULE A.

LICENSE ON PROFESSIONS AND TRADES.

CLASS I.

Persons whose annual profits shall be assessed at Rupees 25,000 and upwards	Rupees. 500
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CLASS II.

Persons whose annual profits shall be assessed at Rupees 10,000, or at more than Rupees 10,000 and less than Rupees 25,000	200
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CLASS III.

Persons whose annual profits shall be assessed at Rupees 5,000, or at more than Rupees 5,000 and less than Rupees 10,000	100
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CLASS IV.

Persons whose annual profits shall be assessed at Rupees 1,000, or at more than Rupees 1,000 and less than Rupees 5,000... ..	20
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CLASS V.

Persons whose annual profits shall be assessed at Rupees 500, or at more than Rupees 500 and less than Rupees 1,000	10
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CLASS VI.

Persons whose annual profits shall be assessed at Rupees 200, or at more than Rupees 200 and less than Rupees 500	4
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SCHEDULE B.

LICENSE ON COMPANIES.

Every Company whose stock or funds is or are divided into shares and transferable with a paid up capital exceeding ten lakhs or £100,000 ...	Rupees. 2,000
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Every such Company with a paid up capital exceeding five lakhs or £50,000 and not exceeding ten lakhs or £100,000	1,000
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Every other such Company duly registered, which in the half-year next preceding the date of its license shall have paid a dividend at or above the rate of five per cent. <i>per annum</i> , and whose profits for the year preceding such date shall have exceeded Rupees 10,000	500
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SCHEDULE C.

SCHEDULE C.

Form of Petition under Section 12.

Stamp eight annas.

TO THE COLLECTOR OF

The day of 186 .

The petition of A. B. of

SHEWETH—

1st.—That in the list of the persons licensed under “the Indian Licenses’ Act, 1867,” and filed in your office pursuant to the 11th Section of the same Act on the day of 186 , your petitioner’s name appears under the third of the classes mentioned in Schedule A to the said Act annexed, that he has been assessed in the sum of Rupees 100 for the license granted to him under such Act, and that he has paid such sum accordingly.

2nd.—That the profits of your petitioner’s profession [*or trade*] of [*here state petitioner’s profession or trade*] for the year ending the thirtieth day of April last were Rupees [*less than Rupees 5,000 and more than Rupees 1,000*]; as will appear from the documents marked presented herewith, and to which your petitioner craves leave to refer.

Your petitioner therefore prays that you will remove his name from the third to the fourth of the said classes, that he may be assessed accordingly, and that the excess of Rupees 80 so paid by him may be refunded.

(Signed) A. B.

Form of Verification.

I, A. B., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

(Signed) A. B.