

THE BRITISH BURMA MUNICIPAL ACT, 1874.

CONTENTS.

PREAMBLE.

PART I.

PRELIMINARY.

SECTIONS.

1. Short title.
Local extent.
Commencement.
2. Interpretation-clause.
3. Power to extend Act.
4. Power to define limits of places to which Act extends.

PART II.

APPOINTMENT OF MUNICIPAL COMMITTEES.

5. Municipal Committees appointed by Chief Commissioner or by election.
6. Removal of members of Committee.
7. *Ex-officio* members of Committee.
8. Appointment of President or Vice-President.
Election of Secretary.
Notification of appointments.

PART III.

OFFICE AND MEETINGS OF COMMITTEES.

9. Committee to have an office.
10. Rules as to meetings.

PART IV.

POWERS OF COMMITTEES.

11. Power to make assessments and impose taxes.
12. Specification of taxes.
13. Power to impose lighting-rate.
Power to impose water-rate.
Rate on native houses.
14. Taxes not to be collected till assessment confirmed.
Power to make rules for collection of taxes.
15. Taxes

[Price five annas.]

SECTIONS.

15. Taxes and rates not invalid for defect of form.
16. License from Committee to establish markets, &c.
17. Power of Committee to make rules.
18. Appointment of members to carry out resolutions.
19. Making bye-laws.
20. Confirmation of bye-laws.
21. Publication of bye-laws.
22. Power to prohibit repetition or continuance of nuisances.
23. Power to remove nuisances.
24. Power to buy and sell land.
Receipts.
25. Cancellation, &c. of proceedings of Committee.
Abolition of taxes.

 PART V.

RIGHTS, DUTIES AND LIABILITIES OF COMMITTEES.

26. Property held for municipal purposes vested in Committee.
27. Municipal Fund.
28. Power to charge upon Port Fund expense caused by seamen.
29. Custody and disbursement of Municipal Fund.
30. Duties of Committee.
31. Contracts.
32. Provision for police.
33. Police to aid in carrying out orders regarding nuisances.
34. Annual reports and statements to be submitted.
35. Rules as to cost and class of works.
36. Land required for municipal purposes may be taken up under Act X of 1870.
37. Suits by and against Committee.
38. Members not personally liable for contracts made.
39. Liability of members for breach of trust.
40. Notice previous to suing Committee or their officers.
Limitation of suits.
Previous tender of amends.

 PART VI.

PENALTIES AND PROSECUTIONS AND RECOVERY OF TAXES.

41. Penalty on Committee or any of their servants being interested in contracts made with Committee.
42. Penalty for infringement of bye-laws or non-payment of fines.
43. Prosecutions.
44. Recovery of taxes.

ACT No. VII OF 1874.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 24th March 1874).

An Act to provide for the appointment of Municipal Committees in Towns in British Burma, and for other purposes.

WHEREAS it is expedient to provide for the ap- Preamble.
pointment of Municipal Committees in Towns
in British Burma, and for the police, conservancy,
and improvement thereof, and for the levying of rates
and taxes therein; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

1. This Act may be called "The British Burma Short title.
Municipal Act, 1874:"

It extends only to the territories under the admin- Local extent.
istration of the Chief Commissioner of British
Burma;

And it shall come into force on the passing thereof. Commence-
ment.

2. In this Act— Interpretation-clause.

"Committee" means a Municipal Committee ap- "Committee."
pointed under the provisions of this Act:

"Municipality" means any town or towns to which "Municipal-
this Act may be extended; and ity."

"Chief Commissioner" means the Chief Commis- "Chief Com-
sioner of the Province of British Burma. missioner."

3. The Chief Commissioner may, by notification Power to
published in the *British Burma Gazette*, declare his extend Act.
intention to extend this Act to any town in British
Burma.

Any

Any inhabitant of such town objecting to such extension may, within six weeks from the said publication, send his objection in writing to the Secretary to the Chief Commissioner, and the Chief Commissioner shall take such objection into consideration.

When six weeks from the said publication have elapsed, the Chief Commissioner, if no such objections have been sent as aforesaid, or (where such objections have been so sent) if in his opinion they are insufficient, may, by like notification, effect the proposed extension.

Power to define limits of places to which Act extends.

4. For the purposes of this Act, the Chief Commissioner may, from time to time, by notification in the *British Burma Gazette*, define the limits of any town, and may include within such limits any suburb or railway-station in the vicinity :

Provided that such notification shall not operate to extend the provisions of the Act to any cantonment or part of a cantonment without the previous consent of the Governor General in Council.

The Chief Commissioner may, from time to time, by notification in the *British Burma Gazette*, declare to be united for the purposes of this Act any two or more neighbouring towns, and may also declare by what name the municipality so formed shall be designated.

PART II.

APPOINTMENT OF MUNICIPAL COMMITTEES.

Municipal Committees appointed by Chief Commissioner or by election.

5. In the case of any town to which this Act has been extended, the Chief Commissioner may appoint, or direct to be appointed by election, any number of the inhabitants thereof, not less than three, to be a Committee for carrying out the purposes of this Act, and may fill up vacancies occurring among them.

Every person so appointed to any such vacancy shall have the same powers, and be subject to the same liabilities, and vacate his office, and be eligible for re-appointment, as if he had been originally appointed under the first clause of this section.

Subject

Subject to the provisions contained in section six, every person appointed under this section shall continue in office for two years and thereafter until his successor has been appointed, and shall be eligible for re-appointment.

In every case in which the Chief Commissioner directs the appointment of a Committee to be by election, he may fix the time and manner of the election and the qualification of the electors, and generally may make such rules as he thinks fit for regulating the election.

6. The Chief Commissioner may from time to time remove any member of a Committee who desires to be discharged or refuses or becomes incapable to act, or is convicted of a non-bailable offence punishable under the Indian Penal Code.

Removal of members of Committee.

The Chief Commissioner may also, if he thinks fit, add to the number of the members of a Committee. Every member so added shall have the same powers, and be subject to the same liabilities, and vacate his office, and be eligible for re-appointment, as if he had been originally appointed under section five.

7. In addition to the members appointed as aforesaid, the Chief Commissioner may appoint, by notification in the *British Burma Gazette*, *ex-officio* members for any place in which they exercise their offices, and to which this Act has been extended :

Ex-officio members of Committee.

Provided that (except with the approval of the Governor General in Council) not less than two-fifths of the members of a Committee shall be persons other than salaried officers of Government.

8. The Chief Commissioner may also appoint the President of every Committee, or sanction the election by its members of one of themselves as President or Vice-President.

Appointment of President or Vice-President.

The Committee may also elect any one of their number or any other person to be their Secretary.

Election of Secretary.

All appointments and elections made under this section shall be notified in the *British Burma Gazette*.

Notification of appointments.

PART III.

OFFICE AND MEETINGS OF COMMITTEES.

Committee to
have an office.

9. Every Committee shall have an office, where the members shall meet for the transaction of business at least once in every month.

Rules as to
meetings.

10. (a.) The President, or, in his absence, the Vice-President, shall preside at every meeting of the Committee :

(b.) In the absence of both the President and Vice-President, the members present may elect a Chairman for the occasion :

(c.) The meetings shall be general or special :

(d.) The President, or, in his absence, the Vice-President, may, whenever he thinks fit, and he shall, upon a requisition made in writing by not less than one-third in number of the members of the Committee, convene a meeting :

(e.) Notice shall be given of every meeting of a Committee, and when the meeting is to be special, at least three days' notice thereof shall be given. Every notice shall state the general nature of the business to be transacted at the meeting proposed to be called :

(f.) The quorum necessary for the transaction of business at a meeting shall be such number not less than three, as the Committee from time to time prescribes :

The quorum necessary for the transaction of business at a special meeting shall be not less than three, besides being at least one-half of the total number of the members of the Committee at the time of the meeting :

(g.) All business may be transacted at a general meeting which this Act does not require to be transacted at a special meeting :

(h.) All questions which may come before the Committee at any meeting shall be decided by a majority of votes :

(i.) Every member of a Committee shall have one vote. In case of equality of votes, the Chairman shall have a second or casting vote :

(j.) Such

(j.) Such decisions shall be recorded in a book kept for the purpose, and shall be published in some local, English or Vernacular newspaper, or in such other manner as the Chief Commissioner from time to time directs.

PART IV.

POWERS OF COMMITTEES.

11. Subject to any general rules or special orders which the Governor General in Council may from time to time make in this behalf, every Committee intending to impose taxes for the purposes of this Act, shall give public notice of such intention, and shall in such notice define the persons or property within the municipality to be taxed for the purposes of this Act, and the nature, amount and rate of the taxes to be imposed hereunder.

Power to make assessments and impose taxes.

Any person likely to be directly affected by all or any of the proposed taxes, and objecting to the proposed imposition may, within a fortnight from the date of the said notice, send his objection in writing to the President of the Committee, and the Committee shall take such objection into consideration and report their opinion thereon to the Chief Commissioner.

When six weeks from the date of the said notice have expired, if no such objections have been sent as aforesaid, or (where such objections have been sent) if, in the opinion of the Committee, they are insufficient, the Committee may, with the previous sanction of the Chief Commissioner, to be notified in the *British Burma Gazette*, define the persons or property, and the amount or rate of the taxes aforesaid, and may then, at a special meeting, impose them accordingly.

The Committee may, at a special meeting, with the same sanction, abolish or lessen in amount any tax so imposed.

12. Such taxes may, subject to the rules or orders last aforesaid, be all or any of the following: Provided

Specification of taxes.

that

that only one of the taxes respectively lettered (a), (b) and (c) shall be imposed on the same property:—

(a.)—A tax on houses, buildings and lands, according to the annual value thereof, not exceeding five per cent. of such value:

(b.)—A tax on lands covered by buildings, at a rate not exceeding one pie per square foot per annum:

(c.)—A tax according to the number of posts in each house, and not exceeding the following rates:—

		Rs.	As.		Rs.	As.
1st class	7 posts	2	8	per quarter	10	0 per annum.
2nd "	6 "	1	12	"	7	0 "
3rd "	5 "	1	0	"	4	0 "
4th "	4 "	0	10	"	2	8 "
5th "	3 "	0	6	"	1	8 "
6th "	2 "	0	2	"	0	8 "

Explanation.—The front posts only, or such as face the road, shall be counted. Provided that, in the case of bázárs or large buildings extending through from street to street, the posts contained in one row, measured lengthwise, shall be counted, and in a house facing a street on more than one side, all the posts having a road or street frontage shall be counted. In the case of houses having more than seven posts calculated according to the above rules, this tax, if imposed, shall not exceed four rupees eight annas per annum, or one rupee two annas per quarter, additional for each post above seven.

(d.)—Taxes on carriages, carts, boats, horses, ponies and elephants, or any of them:

(e.)—Fees on licenses to the proprietors or drivers of carriages, carts and boats plying for hire within the limits of the municipality:

(f.)—Fees on licenses to construct and establish markets, wharves and slaughter-houses, and to hold or to keep open markets, wharves and slaughter-houses constructed or established after this Act comes into force within such limits:

(g.)—Any other or further tax recommended by at least two-thirds of the Committee for the time being, and approved by the Chief Commissioner and sanctioned by the Governor General in Council.

13. To provide for the lighting of the public streets, the Committee may, in addition to the taxes mentioned or referred to in section twelve, impose an annual lighting-rate on all houses, buildings and lands of any municipality not exceeding two per cent. of their annual value.

Power to impose lighting-rate.

To provide for the supply of water, the Committee may, in addition to the taxes last aforesaid, impose an annual rate on all houses and buildings within any municipality not exceeding two per cent. of their annual value.

Power to impose water-rate.

It shall be at the option of the Committee, in lieu of either of the rates mentioned in this section, to levy upon any native houses an annual rate not exceeding one pie for every three square feet of the ground covered by such houses.

Rate on native houses.

Every rate levied under this section shall be payable by the occupiers of the said houses, buildings and lands, and shall be accounted for separately.

14. No tax or rate under this Act shall be collected until the assessment thereof has been confirmed by the Chief Commissioner or such officer as he appoints in this behalf.

Taxes not to be collected till assessment confirmed.

The Chief Commissioner may from time to time, with the previous sanction of the Governor General in Council, make rules for the collection of such taxes and rates, and repeal, alter, or add to such rules.

Power to make rules for collection of taxes.

15. No tax or rate on property made under this Act shall be invalid for defect of form, and it shall be enough, in any such tax or rate or any assessment of value for the purpose of making such tax or rate, if the property rated or assessed be so described as to be generally known, and it shall not be necessary to name the owner or occupier thereof.

Taxes and rates not invalid for defect of form.

16. No person shall, within the limits of any municipality to which this Act has been extended, construct or establish a market or wharf or slaughter-house, or keep a lodging-house for the accommodation of persons not being Natives of British Burma, without a license in writing from the Committee.

License from Committee to establish markets, &c.

Rules

Rules and Bye-Laws.

Power of
Committee to
make rules.

17. Every Committee may from time to time, at a special meeting, make rules consistent with the Act for regulating the time and place of their meetings, the conduct of their business, the restriction of the amount or objects of expenditure under section thirty, the division of duties among themselves, the appointment, leave, suspension and removal of their officers and servants, and for other similar matter.

Appointment
of members
to carry out
resolutions.

18. Every Committee may appoint one or more of their members to carry out their resolutions, and to enforce any of the rules and bye-laws made under the provisions of this Act, or they may appoint a special officer for such purpose.

Making bye-
laws.

19. Every Committee may at a special meeting make bye-laws—

(a.) for declaring what acts or omissions within the municipality shall be considered to be public nuisances;

(b.) for securing a proper registration of births, marriages and deaths;

(c.) for determining the rates of hire of carriages, carts and boats plying for hire within the limits of the municipality;

(d.) for keeping markets, wharves and slaughter-houses in order;

(e.) for the issue of licenses to keepers of lodging-houses for the accommodation of persons not being Natives of British Burma;

(f.) for defining the cases, manner and times in and at which the officers of the Committee may enter upon private property for the detection and abatement of nuisances;

(g.) and for carrying out the purposes of this Act.

The Committee may from time to time, at a special meeting, repeal, alter or add to such bye-laws.

Confirmation
of bye-laws.

20. No rule under section seventeen and no bye-law and no alteration or repeal of, or addition to, a bye-law shall have effect until it has been confirmed by the Chief Commissioner.

21. All

21. All bye-laws made under this Act, and alterations and repeals of, and additions to, such bye-laws, shall be published for such length of time and in such manner as the Chief Commissioner from time to time directs, and shall after such publication have the force of law.

Publication of bye-laws.

Public Nuisances.

22. The Committee may enjoin, within the limits of the municipality, any person not to repeat or continue a public nuisance.

Power to prohibit repetition or continuance of nuisances.

Every such injunction shall be deemed to have been made by a public servant.

23. Any member or members sitting together of a Committee whom the Chief Commissioner authorizes in this behalf may, so long as such authorization continues, exercise the powers of a Magistrate of a District as described in section five hundred and twenty-one of the Code of Criminal Procedure for the removal of nuisances, and in the exercise of such powers shall follow the procedure prescribed in sections five hundred and twenty-one to five hundred and twenty-eight (both inclusive) of the same Code.

Power to remove nuisances.

Purchase and Sale of Land.

24. The Committee may at a special meeting, and with the previous sanction of the Chief Commissioner, purchase land for the purposes of this Act, and may, at a like meeting and with the like sanction, sell any portion of such land which is not required for the purposes aforesaid, and convey the same in the names of the President and two of the members of the Committee.

Power to buy and sell land.

The receipt of the President and any two members of the Committee for any monies paid to them upon any such sale shall effectually discharge the person paying the same therefrom, or from being concerned to see to the application thereof, or being accountable for the non-application or misapplication thereof; and the proceeds of such sale shall be applied for the purposes of this Act.

Receipts.

Controlling

Controlling Power of the Chief Commissioner.

Cancellation,
&c. of
proceedings
of Committee.

25. The Chief Commissioner may by order cancel suspend or limit any of the acts, proceedings or rule of any Committee.

Abolition of
taxes.

The Chief Commissioner may also abolish any tax or rate which shall have been sanctioned, but not so as to entitle any person to a refund of monies paid in respect of such tax or rate.

PART V.

RIGHTS, DUTIES AND LIABILITIES OF COMMITTEES.

Highways.

Property held
for municipal
purposes
vested in
Committee.

26. All property moveable and immoveable, which, when this Act comes into force in any municipality, is held for municipal purposes, shall become vested in the Committee appointed under this Act for such municipality: Provided that the Local Government may, by notification in the *British Burma Gazette*, at any time before the extension of this Act to such municipality, except from the operation of this provision any portion of such property, and reserve it to be held either by the Local Government or in the manner in which the same is held at the date of such notification.

Municipal Fund.

Municipal
Fund.

27. All sums received by the Committee of any town to which this Act shall be extended, and all fines levied under this Act, and all receipts from property managed by the Committee, shall constitute a fund, which shall be called the Municipal Fund of such town, and shall, together with all property which may become vested in such Committee, be under their control, and shall be applied by them as trustees for the purposes of this Act.

The Committee shall keep separate accounts of all receipts and payments of and out of funds raised for the purposes of section thirteen, or assigned to the Committee for any other specific purpose.

Power to
charge upon

28. The Chief Commissioner may from time to time, with the previous sanction of the Governor General

General in Council, assign to the Committee of any town upon which any port may be abutting, or within which any port may be, such annual sums to be charged upon and payable out of the Port Fund of such port as to him seem just and reasonable, for or towards reimbursing to the Municipal Fund such portion of their general expenditure as may, in his opinion, be rendered necessary by the visits to such town of seamen from ships lying in such port.

Port Fund
expense
caused by
seamen.

29. The funds of every municipality shall be kept in the Government Treasury of the district, or in the Bank (if any) to which the Government Treasury business shall have been made over.

Custody and
disbursement
of Municipal
Fund.

No disbursement of such funds or any part thereof shall be made except under the signature of the President or Vice-President and one other member of the Committee.

30. Subject to the provisions of this Act and to their rules restricting the amount or the subjects of expenditure, and after providing out of such fund for a police establishment in the manner hereinafter mentioned, every Committee shall, so far as the Municipal Fund permits, keep the public streets, roads, drains, tanks and water-courses of the municipality for which they are appointed clean and in repair,

Duties of
Committee.

and may cause such streets and roads, or any of them, to be watered and lighted,

and generally may do all acts and things necessary for the purposes of conservancy,

and may construct and provide for the management of hospitals, dispensaries, market-places and other works of general utility,

and may also make provision for promoting the public health, safety, comfort and convenience.

The Committee may also make provision, by the establishment of new schools or the aiding of already existing schools or otherwise, for the promotion of education in the municipality for which such Committee are appointed.

31. Every

Contracts.

31. Every contract made on behalf of the Committee in respect of any sum exceeding twenty rupees, or in respect of any property exceeding twenty rupees in value, shall be in writing, and shall be signed by the President or Vice-President and at least two other members of the Committee, of whom one shall be an *ex-officio* member. Unless so executed, it shall not be binding on the Committee.

Municipal Police.

Provision for police.

32. Every Committee shall provide in the first place from the funds applicable to the general purposes of the municipality, such sums as the Chief Commissioner may from time to time require for the establishment and maintenance of the police ordinarily employed on town duties within the limits of the municipality.

Police to aid in carrying out orders regarding nuisances.

33. The municipal police shall be enrolled under Act No. V of 1861 (*for the regulation of Police*).

Every police officer in any town to which this Act is extended shall have power to take into custody without a warrant any person who, within his view, commits any of the offences mentioned in section thirty-four of the said Act No. V of 1861, and shall be bound to carry out the orders issued by the Committee for the prohibition and prevention of any public nuisance defined to be such by any bye-law made under this Act.

Annual Reports.

Annual reports and statements to be submitted.

34. Every Committee shall annually, or oftener if directed by the Chief Commissioner to do so, submit statements of their receipts on account of, and disbursements from, the Municipal Fund, and also reports of all works executed or proceedings taken by them under the authority of this Act.

Such accounts shall be examined or audited in such manner as the Chief Commissioner from time to time prescribes.

The Committee shall also submit, at such time and in such form as may be directed by the Chief Commissioner, an estimate of their probable receipts

for

for the financial year next following, with proposals for their expenditure.

An abstract of such estimate and proposals shall, on being so submitted, be published in such manner as the Chief Commissioner from time to time directs.

35. The Chief Commissioner may from time to time make rules consistent with this Act, as to the cost and the class of works which the Committee may execute, and the members of the Committee shall be legally bound to obey such rules.

Rules as to cost and class of works.

Land required for Public Purposes.

36. When any land within the limits of any municipality is required for the construction or improvement of a highway, for the promotion of the healthiness of the neighbourhood, or for any other public purpose, if the Committee cannot agree with the owner for the purchase thereof, the Chief Commissioner, on the recommendation of the Committee, may notify in the *British Burma Gazette* that such land is required under the provisions of the Land-Acquisition Act, 1870, and on payment by the Committee of the compensation awarded under such Act, the land shall vest in them for the purposes of this Act.

Land required for municipal purposes may be taken up under Act X of 1870.

Suits by and against Committee.

37. Every Committee shall sue and be sued in the name of their President.

Suits by and against Committee.

38. No member of a Committee shall be personally liable for any contract made or expense incurred by or on behalf of the Committee; but the funds from time to time in the hands of the Committee shall be liable for, and chargeable with, all contracts made in the manner above provided for.

Members not personally liable for contracts made.

39. Every member of a Committee shall be liable for any misapplication of money entrusted to the Committee to which he shall have been a party, or which happens through, or is facilitated by, the neglect of his duty; and he shall be liable to be sued for the same in such Court as the Chief Commissioner directs as for money due to Government.

Liability of members for breach of trust.

40. No

Notice previous to suing Committee or their officers.

40. No suit shall be brought against a Committee or any of their officers, or any person acting under their direction, for anything done under this Act, until the expiration of one month next after notice in writing has been delivered or left at the office of the Committee, or at the place of abode of such person, stating the cause of suit and the name and place of abode of the intending plaintiff.

Unless such notice be proved, the Court shall find for the defendant.

Limitation of suits.

Every such suit shall be commenced within three months next after accrual of the right to sue and not afterwards.

Previous tender of amends.

If any person to whom any such notice of suit is given shall, before suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

PART VI.

PENALTIES AND PROSECUTIONS AND RECOVERY OF TAXES.

Penalty on Committee or any of their servants being interested in contracts made with Committee.

41. No member or servant of a Committee shall be interested directly or indirectly in any contract made with the Committee; and if any such person be so interested, he shall thereby become incapable of continuing in office or in employment as such member or servant, and shall be liable to a fine not exceeding five hundred rupees :

Provided that no person shall, by reason of being a shareholder in or member of any incorporated or registered Company, be deemed interested in any contract entered into between such Company and the Committee.

Nevertheless it shall not be lawful for such shareholder or member to act as a member of the Committee in any matter relating to such contract.

Penalty for infringement of bye-laws or non-payment of fines.

42. Whoever infringes any bye-law made and confirmed as directed in this Act, shall be liable to a fine not exceeding fifty rupees, and, in the case of a continuing infringement, to a fine not exceeding five rupees

rupees for every day after notice from the Committee of such infringement.

In default of payment of any fine imposed under this section, the defaulter shall, in the case of a continuing infringement, be liable to simple imprisonment for a term not exceeding one month; and in any other case, to simple imprisonment for a term not exceeding eight days.

43. Prosecutions under this Act for infringement of bye-laws may be instituted before any Magistrate having jurisdiction by the Committee or any person authorized by them in this behalf. Prosecutions.

44. All fees and all sums due on account of property for the time being vested in the Committee, and all arrears of taxes and rates imposed under this Act, may be recovered as if they were arrears of land-revenue. Recovery of taxes.