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THE LEGAL PRACTITIONERS ACT, 1879

ACT NO. 18 OF 1879¹

[29th October, 1879.]

An Act to consolidate and amend the law relating to Legal Practitioners.

Preamble.—WHEREAS it is expedient to consolidate and amend the law relating to Legal Practitioners in ²[certain Provinces, and to empower the Provincial Government of every other Province to extend thereto] such portions of this Act as such Government may think fit; It is hereby enacted as follows:—

CHAPTER I PRELIMINARY

1. Short title, commencement.—This Act may be called the Legal Practitioners Act, 1879; and shall come into force on the first day of January, 1880.

Local extent.—This section and section 2 extend to the whole of India ³[except the State of Jammu and Kashmir*.]

⁴[The rest of this Act extends, in the first instance, only to the territories which, immediately before the 1st November, 1956, were comprised in West Bengal, Uttar Pradesh, Punjab, Bihar, Madhya Pradesh, Assam, Orissa and Delhi. But the State Government of any State may, from time to time, by notification in the Official Gazette, extend⁵ all or any of the provisions of the rest of this Act to the whole or any part of that State to which such provisions do not extend.]

2. [Repeal of enactments.] *Rep. by the Repealing Act, 1938 (1 of 1938) s. 2 and Schedule.*

1. This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941). It has been declared to be in force in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch., and also by notification under s. 3 of the Scheduled Districts Act, 1874 (14 of 1874), in the Districts of Hazaribagh, Lohardaga and Manbhum and Pargana Dhalbhum and the Kolhan in the District of Singhbhum, *see* Gazette of India, 1881, Pt. I, p. 504. The District of Lohardaga (now called the Ranchi District, *see* Calcutta Gazette, 1889, Pt. I, p. 44) included at this time the District of Palamau, which was separated in 1894.

It has been amended in its application to—

Bengal by Ben. Act 5 of 1942 ;

C. P. and Berar by C. P. & Berar Act 25 of 1939;

Madras by Mad. Acts 3 of 1943, 14 of 1944, 9 of 1947, 17 of 1950 and 12 of 1960;

Orissa by Orissa Act 6 of 1938; and

U. P. by U.P. Acts 4 of 1925 and 4 of 1936.

The Act has not been extended to the State of Manipur, *vide* Act 30 of 1950, s. 3 and Sch. as amended by Act 68 of 1956.

The Act has been extended to the whole of Madhya Pradesh by M.P. Act 23 of 1958 (when notified) and to transferred territories in Punjab by Punjab Act 41 of 1960.

2. Subs. by the A. O. 1948, for “the Lower Provinces of Bengal, the North-Western Provinces, the Punjab Oudh, the Central Provinces and Assam, and to empower each of the Local Governments of the rest of British India to extend to the territories administered by it”.

3. Subs. by Act 3 of 1951, s. 3 and Sch., for “except Part B States”.

4. Subs. by the Adaptation of Laws (No. 2) Order, 1956, for the former paragraph.

5. Under this power, the Act has been extended, subject to certain omissions and so far only as it relates to judicial Courts, Civil and Criminal, to the Madras Presidency, except the Scheduled Districts, from 1st April 1882, *see* Fort St. George Gazette, 1881, Pt. I, pp. 491 and 707. Ss. 3 and 4 of the Act have been extended to the Regulation Districts of the Bombay Presidency, *see* Bombay Government Gazette 1885, Pt. I, p. 290; and ss. 13 [except clauses (a), (b), (c), (d) and (f) thereof], 34, 36 and 40 have been extended, to the whole of the Bombay Presidency (Bombay Gazette, 1904, Pt. p. 1635). Ch. I, s. 40, Sch. II, and so much of Chs. III, V, VI and VII as relates to pleaders, have been extended to Coorg, *see* Mysore Gazette, 1879, Pt. I, p. 355; *see* also Coorg District Gazette, 1891, Pt. 1, p. 140, for notification extending ss. 4, 5 and 38; Coorg District Gazette, 1899, Pt. I, P. 122, for notification extending ss. 3, 13 and 36 as amended by Act 11 of 1896 so far as they relate to pleaders; and Coorg Gazette, 1935, Pt. I, A. 2, for notification extending ss. 4 and 41. Ss. 4 and 41 have been extended to Ajmer-Merwara, *see* Gazette of India, 1927, Pt. II-A P. 214.

*. *Vide* Notification No. S.O. 3912 (E), dated 30th October, 2019, this Act is made applicable to the Union territory of Jammu and Kashmir and the Union territory of Ladakh.

3. Interpretation-clause.—In this Act, unless there be something repugnant in the subject or context,—

“Judge” means the presiding judicial officer in every Civil and Criminal Court, by whatever title he is designated;

“subordinate Court” means all Courts subordinate to the High Court, including Courts of Small Causes established under Act No. 9 of 1850¹ or Act No. 11 of 1865²;

“revenue-office” includes all Courts (other than Civil Courts) trying suits under any Act for the time being in force relating to landholders and their tenants or agents;

“legal practitioner” means an advocate, *vakil* or attorney of any High Court, a pleader *mukhtar* or revenue-agent ;

³[“tout” means a person—

(a) who procures, in consideration of any remuneration moving from any legal practitioner, the employment of the legal practitioner in any legal business; or who proposes to any legal practitioner or to any person interested in any legal business to procure, in consideration of any remuneration moving from either of them, the employment of the legal practitioner in such business; or

(b) who for the purposes of such procurement frequent the precincts of Civil or Criminal Courts or of revenue-offices, or railway stations, landing stages, lodging places or other places of public resort.]

CHAPTER II

OF ADVOCATES, VAKILS AND ATTORNEYS

4. [*Advocates and Vakils.*] *Rep. by the Advocates Act, 1961 (25 of 1961), s. 50 (3) (w.e.f. 15-6-2011).*

5. [*Attorneys of High Court.*] *Rep. by s. 50(3), ibid. (w.e.f. 15-6-2011).*

CHAPTER III

OF PLEADERS AND MUKHTARS

6. [*Powers to make rules as to qualifications, etc., of pleaders and mukhtars. Publication of rules.*] *Rep. by the Advocates Act, 1961 (25 of 1961), s. 50 (2) (w.e.f. 1-12-1961).*

7. [*Certificates to pleaders and mukhtars.*] *Rep. by s. 50 (2), ibid. (w.e.f. 1-12-1961).*

8. [*Pleaders on enrolment may practise in Courts and revenue-offices.*] *Rep. s. 50(5), ibid. (w.e.f. 15-6-2011).*

9. [*Mukhtars on enrolment may practise in Courts.*] *Rep. by s. 50(5), ibid. (w.e.f. 15-6-2011).*

10. [*No person to practise as pleader or mukhtar unless qualified.*] *Rep. by s. 50(3), ibid. (w.e.f. 15-6-2011).*

11. [*Power to declare functions of mukhtars.*] *Rep. by s. 50 (5), ibid. (w.e.f. 15-6-2011).*

12. [*Suspension and dismissal of pleaders and mukhtars convicted of criminal offence.*] *Rep. by s. 50(4), ibid. (w.e.f. 1-9-1963).*

13. [*Suspension and dismissal of pleaders and mukhtars guilty of unprofessional conduct.*] *Rep. by s. 50(4), ibid. (w.e.f. 1-9-1963).*

1. See now the Presidency Small Cause Courts Act, 1882 (15 of 1882).

2. See now the Provincial Small Cause Courts Act, 1887 (9 of 1887).

3. Subs. by Act 15 of 1926, s. 2, for the former definition.

14. [*Procedure when charge of unprofessional conduct is brought in Court or revenue-office. Suspension pending investigation.*] Rep. by the Advocates Act, 1961 (25 of 1961), s. 50 (4) (w.e.f. 1-9-1963).

15. [*Power to call for record in case of acquittal under section 14.*] Rep. by s. 50(4), *ibid.* (w.e.f. 1-9-1963).

16. [*Power to make rules for mukhtars on appellate side of High Court.*] Rep. by s. 50 (5), *ibid.* (w.e.f. 15-6-2011).

CHAPTER IV

OF REVENUE-AGENTS

17. [*Power to make rules as to qualifications, etc., of revenue-agents.*] Rep. by the Advocates Act, 1961 (25 of 1961), s. 50 (5) (w.e.f. 15-6-2011).

18. [*Certificates to revenue-agents.*] Rep. by s. 50(2), *ibid.* (w.e.f. 1-12-1961).

19. [*Enrolment of revenue-agent.*] Rep. by s. 50 (5), *ibid.* (w.e.f. 15-6-2011).

20. [*No person to act as agent in revenue-offices unless qualified.*] Rep. by s. 50 (3), *ibid.* (w.e.f. 15-6-2011).

21. [*Dismissal of revenue-agent convicted of criminal offence.*] Rep. by s. 50(4), *ibid.* (w.e.f. 1-9-1963).

22. [*Suspension and dismissal of revenue-agents guilty of unprofessional conduct.*] Rep. by s. 50(4), *ibid.* (w.e.f. 1-9-1963).

23. [*Procedure when revenue-agent is so charged in subordinate office.*] Rep. by s. 50 (4), *ibid.* (w.e.f. 1-9-1963).

24. [*Power to Chief Controlling Revenue-authority to call for record.*] Rep. by s. 50(4), *ibid.* (w.e.f. 1-9-1963).

CHAPTER V

OF CERTIFICATES

25. [*Fee for certificates.*] Rep. by the Advocates Act, 1961 (25 of 1961), s. 50(5) (w.e.f. 15-6-2011).

26. [*Dismissed practitioners to surrender certificates.*] Rep. by s. 50(5), *ibid.* (w.e.f. 15-6-2011).

CHAPTER VI

OF THE REMUNERATION OF PLEADERS, MUKHTARS AND REVENUE-AGENTS

27. [*High Court and Chief Controlling Revenue-authority to fix fees on civil and revenue-proceedings.*] Rep. by the Advocates Act, 1961 (25 of 1961), s. 50 (5) (w.e.f. 15-6-2011).

28. [*Agreements with clients.*] Rep. by the Legal Practitioners (Fees) Act, 1926 (21 of 1926), s. 6.

29. [*Power to modify or cancel agreements.*] Rep. by s. 6, *ibid.*

30. [*Agreements to exclude further claims.*] Rep. by s. 6, *ibid.*

31. [*Reservation of responsibility for negligence.*] Rep. by s. 6, *ibid.*

CHAPTER VII

PENALTIES

32. [*On persons illegally practising as pleaders, mukhtars or revenue agents.*] Rep. by the Advocates Act, 1961 (25 of 1961), s. 50 (5) (w.e.f. 15-6-2011).

33. [*On suspended or dismissed pleader, etc., failing to deliver certificate.*] *Rep. by the Advocates Act, 1961 (25 of 1961), s. 50 (5) (w.e.f. 15-6-2011).*

34. [*On suspended or dismissed practitioner practising during suspension or after dismissal.*] *Rep. by s. 50 (5), ibid. (w.e.f. 15-6-2011).*

35. [*Revision of fines.*] *Rep. by s. 50 (5), ibid. (w.e.f. 15-6-2011).*

¹[36. **Power to frame and publish lists of touts.**—(1) Every High Court, District Judge, Sessions Judge, District Magistrate and Presidency Magistrate, every Revenue-officer, not being below the rank of a Collector of a district, and the Chief Judge of every Presidency Small Cause Court (each as regards their or his own Court and the Courts, if any, subordinate thereto) may frame and publish lists of persons proved to their or his satisfaction, ²[or to the satisfaction of any subordinate Court as provided in sub-section (2A)] by evidence of general repute or otherwise, habitually to act as touts, and may, from time to time, alter and amend such lists.

²[*Explanation.*—The passing of a resolution, declaring any person to be or not to be a tout, by a majority of the members present at a meeting, specially convened for the purpose, of an association of persons entitled to practise as legal practitioners in any Court or revenue-office, shall be evidence of the general repute of such person for the purposes of this sub-section.]

(2) No person's name shall be included in any such list until he shall have had an opportunity of showing cause against such inclusion.

²[(2A) Any authority empowered under sub-section (1) to frame and publish a list of touts may send to any Court subordinate to such authority the names of any persons alleged or suspected to be touts, and order that Court to hold an inquiry in regard to such persons; and the subordinate Court shall thereupon hold an inquiry into the conduct of such persons and, after giving each such person an opportunity of showing cause as provided in sub-section (2), shall report to the authority which has ordered the inquiry the name of each such person who has been proved to the satisfaction of the subordinate Court to be a tout; and that authority may include the name of any such person in the list of touts framed and published by that authority.

Provided that such authority shall hear any such person who, before his name has been so included, appears before it and desires to be heard.]

(3) A copy of every such list shall be kept hung up in every Court to which the same relates.

(4) The Court or Judge may, by general or special order, exclude from the precincts of the Court any person whose name is included in any such list.

(5) Every person whose name is included in any such list shall be deemed to be proclaimed as a tout within the meaning of section 13, clause (e), and section 22, clause (d).

²[(6) Any person who acts as a tout whilst his name is included in any such list shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.]

CHAPTER VIII MISCELLANEOUS

37. [*State Government to appoint examiners.*] *Rep. by the Advocates Act, 1961 (25 of 1961), s. 50(2) (w.e.f. 1-12-1961).*

38. [*Exemption of High Court practitioners from certain parts of Act.*] *Rep. by s. 50 (5), ibid. (w.e.f. 15-6-2011).*

1. Subs. by Act 11 of 1896, s. 4, for section 36.

2. Ins. by Act 15 of 1926, s. 3.

39. [*Suspension or dismissal of person holding mukhtar and revenue-agent's certificate.*] Rep. by the Advocates Act, 1961 (25 of 1961), s. 50(4) (w.e.f. 1-9-1963).

40. [*Pleaders, etc., not to be suspended or dismissed without being heard.*] Rep. by s. 50(4), *ibid.* (w.e.f. 1-9-1963).

41. [*Power for certain High Courts to enrol advocates.*] Rep. by s. 50 (5), *ibid.* (w.e.f. 15-6-2011).

42. [*Repeal of Chapter VI of Boni. Reg. II of 1827 and Acts 1 of 1846 and 20 of 1853.*] Rep. by the Repealing Act, 1938 (1 of 1938), s. 2 and Sch.

FIRST SCHEDULE.—[Enactments repealed.] Rep. by the Repealing Act, 1938 (1 of 1938), s. 2 and Schedule.

SECOND SCHEDULE

(See Section 25)

VALUE OF STAMPS FOR CERTIFICATES

I

For a certificate authorizing the holder to practise as a pleader—

- (a) in the High Court and any subordinate Court—rupees fifty;
- (b) in any Court of Small Causes in a Presidency-town—rupees twenty-five;
- (c) in all other subordinate Courts—rupees twenty-five;

(d) in the Courts of Subordinate Judges, Munsifs, Assistant Commissioners, Extra Assistant Commissioners and Tahsildars, in Courts of Small Causes outside the Presidency towns and in all Criminal Courts subordinate to the High Court—rupees fifteen;

(e) in the Courts of Munsifs and any Civil or Criminal Court of first instance not hereinbefore specifically mentioned—rupees five.

II

For a certificate authorizing the holder to practise as a mukhtar—

- (f) in the High Court and any subordinate Court—rupees twenty-five;
- (g) in any Court of Small Causes in a Presidency-town—rupees fifteen;
- (h) in all other subordinate Courts—rupees fifteen;

(i) in the Courts of Subordinate Judges, Munsifs, Assistant Commissioners, Extra Assistant Commissioners and Tahsildars, in Courts of Small Causes outside the Presidency-towns and in all Criminal Courts subordinate to the High Court--rupees ten;

(j) in the Courts of Munsifs and. any Civil or Criminal Court of first instance not hereinbefore specifically mentioned—rupees five.

III

For a certificate authorising the holder to practise as a revenue-agent—

(k) in the office of the Chief Controlling Revenue-authority and in any revenue-office subordinate to such authority— rupees fifteen;

(l) in the office of a Commissioner and in any revenue-office subordinate to a Commissioner— rupees ten;

(m) in the office of a Collector and in any revenue-office subordinate to a Collector— rupees five.