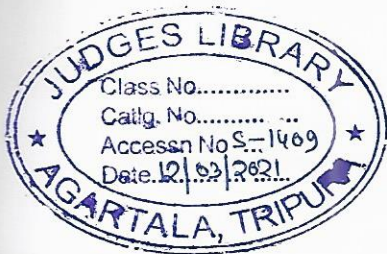


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The Saráis Act, 1867

[Act 22 of 1867]¹

[15th March, 1867]

An Act for the regulation of public Saráis and Puraos

Whereas it is expedient to provide for the regulation of public Saráis and Puraos:

It is hereby enacted as follows:—

Statement of Objects and Reasons.—The primary object of this Bill, which is modelled on certain sections of the English Common Lodging Houses Acts (14 and 15 Vic, cap. 28, 16 and 17 Vic, cap. 41), is to provide for the regulation of Sarais, or buildings used in the Mofussil for the shelter and accommodation of travellers. The Bill, which has been framed at the request of the Government of the North-Western Provinces, on the representation of the Inspector General of Police, proposes to repeal and re-enact in an improved form the only existing provision on the subject, that, namely, contained in Bengal Regulation XIV of 1807, Section 11, Clause 5, and it also provides, inter alia, for the registration, cleansing and repairing of Sarais, for the appointment of proper persons as keepers of Sarais and for the maintenance of a number of watchmen sufficient to ensure the protection of travellers using Sarais from robbery. The provisions of the Bill apply also to Puraos, or halting places in the open.

The Bill will not affect Sarais belonging to Government or to Municipal Committees.

The Bill will in the first place apply only to the North-Western Provinces; but power is given to the Governor-General in Council to extend it, mutatis mutandis to any other part of British India, 1867, p. 194.

1. Repeal of Bengal Regulation 14 of 1807, Section 11, Clause 5.—[*Repealed by the Amending Act, 1891 (12 of 1891).*]

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

“**Sarái**”.—Sarái means any building used for the shelter and accommodation of travellers, and includes, in any case in which only part of a building is used as a sarái, the part so used of such building. It also includes a purao so far as the provisions of this Act are applicable thereto:

“**Keepier (sic Keeper) of a sarái**”. —“Keeper of a sarái” includes the owner and any person having of acting in the care or management thereof:

1. As to extent, see note to Section 17, *infra*.

The Act has been declared, by notification under Section 3(a) of the Schedule Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

The Districts of Hazaribagh, Lohardaga (now the Ranchi District, see Calcutta Gazette, 1899, Part I, p. 44), and Manbhum and Pargana Dhalbhum and the Kolhan in the District of Singhbhum. See Gazette of India, 1881, Part I, p. 504.

The Tarai of the Province of Agra. See Gazette of India, 1876, Part I, p. 505.

It has also been extended to the districts of Ganjam and Koraput and to certain partially excluded areas in the Province of Orissa. See Orissa Govt. Notifications No. 776-P, dated 23-6-1941 and No. 188-P, dated 18-1-1939, respectively.



“Magistrate of the District”. —² “Magistrate of the District” means the chief officer charged with the executive administration of a district in criminal matters whatever may be his designation:

³[* * *].

“Local Government”.—⁴[* * *]

CASE LAW ▶ Sarái, meaning of.—The whole scheme of the Saráis Act, 1867, shows that the Act is not intended merely to be applicable to saráis where charges are levied from the travelers but that the aim and object of the Act is to provide the proper safeguards of the travelers who stay in any sarái whether on payment of the charges or otherwise. The mere fact that charges have not to be levied for the stay of travelers in any building would not be enough to hold that the said building although used for the shelter and accommodation of travelers would not fall within the definition of the word “sarái” as defined in the Act. The various duties of the keepers of saráis as given in Section 7 of the Act indicate the protections which the legislature aimed at providing to the travelers and on principle there should be no difference whether the travelers stay in the building on payment of charges or are allowed to stay there without such payment, *Punjab State v. Chaman Lal*, 1959 SCC OnLine P&H 231 : ILR (1960) 1 P&H 672.

3. Notice of this Act to be given to keepers of saráis.—Within six months after this Act shall come into operation the Magistrate of the District in which any sarái to which this Act shall apply may be situate shall, and from time to time thereafter such Magistrate, may give to the keeper of every such sarái notice in writing of this Act, by leaving such notice for the keeper at the sarái; and shall by such notice require the keeper to register the saráis by the Act provided.

Such notice may be in the form in the Schedule to this Act annexed or to the like effect.

4. Registers of saráis to be kept.—The Magistrate of the District shall keep a register in which shall be entered by such Magistrate or such other person as he shall appoint in this behalf, the names and residences of the keepers of all saráis within his jurisdiction, and the situation of every such sarái.

No change shall be made for making any such entry.

5. Lodgers, etc., not to be received in saráis until registered.—After one month after the giving of such notice to register as by this Act provided, the keeper of any sarái or any other person shall not receive any lodger or allow any person, cattle, sheep, elephant, camel or other animal, or any vehicle, to halt or be placed in such sarái until the same and the name and residence of the keeper thereof shall have been registered as by this Act provided.

6. Magistrate may refuse to register keeper not producing certificate of character.—The Magistrate of the District may, if he shall think fit, refuse to register as the keeper of a sarái a person who does not produce a certificate of

2. This reference should now be read as “District Magistrate”. See paragraph 2 of Section 3 of the Code of Criminal Procedure, 1898 (5 of 1898).
 3. The words “words in the singular include the plural, and vice versa” repealed by Act 10 of 1914, and the definition of “L.G.” repealed by the A.O. 1937.
 4. Definition of “Local Government” Repealed by A.O. 1937.

character in such form and signed by such persons as the ⁵[State Government] shall from time to time direct.

7. Duties of keepers of saráis.—The keeper of sarái shall be bound—

- (1) when any person in such sarái is ill of any infectious or contagious disease, or dies of such disease, to give immediate notice thereof to the nearest police-station:
- (2) at all times when required by any Magistrate or any other person duly authorized by the Magistrate of the District in this behalf, to give him free access to the sarái and allow him to inspect the same or any part thereof:
- (3) to thoroughly cleanse the rooms and varandahs, and drains of the sarái, and the wells, tanks, or other sources from which water is obtained for the persons or animals using it, to the satisfaction of, and so often as shall be required by, the Magistrate of the District, or such person as he shall appoint in this behalf:
- (4) to remove all noxious vegetation on or near the sarái, and all trees and branches of trees capable of affording to thieves means of entering or leaving the sarái:
- (5) to keep the gates, walls, fences, roofs and drains of the sarái in repair:
- (6) to provide such number of watchman as may, in the opinion of the Magistrate of the District, subject to such rules as the ⁶[State Government] may prescribe in this behalf, be necessary for the safety and protection of persons and animals or vehicles lodging in, halting at or places in the sarái: and
- (7) to exhibit a list of charges for the use of the sarái at such place and in such form and languages as the Magistrate of the District shall from time to time direct.

8. Power to order reports from keepers of saráis.—The keeper of a sarái shall from time to time, if required so to do by an order of the Magistrate of the District served upon him, report, either orally or in writing as may be directed by the Magistrate, to such Magistrate or to such person as the Magistrate shall appoint, every person who resorted to such sarái during the preceding day or night.

If written reports are required for any space of time exceeding a single day or night, schedules shall be furnished by the Magistrate of the District to the keeper.

The keeper shall from time to time fill up the said schedules with the information so required, and transmit them to the said Magistrate, in such manner and at such intervals as may from time to time be ordered by him.

9. Power to shut up, secure, clear and clean deserted saráis.—If any sarái by reason of abandonment or of disputed ownership shall remain untenanted, and

5. Subs. for "Provincial Government" by A.O. 1950. Prior "Provincial Government" was substituted for "Local Government" by A.O. 1937.

6. Subs. for "Provincial Government" by A.O. 1950. Prior "Provincial Government" was substituted for "Local Government" by A.O. 1937.



thereby become a resort of idle and disorderly persons, or become in a filthy or unwholesome state, or be complained of by any two or more of the neighbours as a nuisance, the Magistrate of the District, after due enquiry, may cause notice in writing to be given to the owner or to the person claiming to be the owner, if he be known and resident within the district, and may also cause such notice to be put on some conspicuous part of the sarái, requiring the persons concerned therein, whoever they may be, to secure, enclose, clean or clean the same;

and if such requisition shall not be complied with within eight days, the Magistrate of the District may cause the necessary work to be executed, and all expenses thereby incurred shall be paid by the owner of the sarái, and shall be recoverable like penalties under this Act, or, in case of abandonment or disputed ownership of the sarái, by the sale of any material found therein.

10. Taking down or repairing ruinous saráis.—If a sarái or any part thereof be deemed by the Magistrate of the District to be in a ruinous state, or likely to fall, or in any way dangerous to the persons or animals lodging in or halting at the sarái, he shall give notice in writing to the keeper of the sarái, requiring him forthwith to take down, repair or secure (as the case may be) the sarái or such part thereof as the case may require.

If the keeper do not begin to take down, repair or secure the sarái, or such part as aforesaid within three days after such notice, and complete such work with due diligence, the Magistrate shall cause all or so much of the sarái as he shall think necessary to be taken down, repaired or otherwise secured.

All the expenses so incurred by the Magistrate shall be paid by the keeper of the sarái, and shall be recoverable from him as hereinafter mentioned.

11. Sale of materials of ruinous saráis.—If any such sarái or any part thereof be taken down by virtue of the powers aforesaid, the Magistrate of the District may sell the materials thereof, or so much of the same as shall be taken down under the provisions of the last preceding section, and apply the proceeds of such sale in payment of the expenses incurred, and shall restore the overplus (if any) arising from such sale to the owner of such sarái on demand, and may recover the deficiency (if any) as if the amount thereof were a penalty under this Act.

12. Penalty for permitting saráis to be filthy or overgrown.—Whoever, being the keeper of any sarái, suffers the same to be in a filthy and unwholesome state, or overgrown with vegetation, or after the expiration of two days from the time of his receiving notice in writing from the Magistrate of the District to cleanse or clear the same, or after he shall have been convicted of suffering the same to be in such state or so overgrown as aforesaid, shall allow the same to continue in such state, or so overgrown, shall be liable to the penalties provided in Section 14 of this Act:

Provided that the Magistrate of the District may, in lieu of enforcing such daily penalty, enter on and cleanse or clear the said sarái, and the expense incurred by the Magistrate in respect thereof shall be paid to him by the keeper, and shall be recoverable as by this Act provided in the case of penalties.

13. Power for State Government to make regulations.—The ⁷[State Government] may from time to time make regulations for the better attainment of the objects of this Act, provided that such rules be not inconsistent with this Act or with any other law for the time being in force, and may from time to time repeal, alter and add to the same.

All regulations made under this Act and all repeals thereof, and alterations and additions thereto, shall be published in the ⁸[Official Gazette].

14. Penalty for infringing Act or regulations.—If the keeper of a sarái offend against any of the provisions of this Act or any of the regulations made in pursuance of this Act, he shall for every such offence be liable on conviction before any Magistrate to a penalty not exceeding twenty rupees, and to a further penalty not exceeding one rupee a day for every day during which the offence continues:

Provided always that this Act shall not exempt any person from any penalty or other liability to which he may be subject, irrespective of this Act.

All penalties imposed under this Act may be recovered in the same manner as fines may be recovered under ⁹Section 61 of the Code of Criminal Procedure (25 of 1861).

STATE AMENDMENTS

Manipur.—In its application to the State of Manipur, in Section 14, for the words “Section 61 of Code of Criminal Procedure”, *substitute* the words “the laws in force in Manipur relating to the recovery of fines”. [*Vide* S.R.O. 2003, dated 31-10-1953]

Mysore.—In its application to the State of Mysore, in Section 14, for the word “Magistrate”, *substitute* the words “Judicial Magistrate”. [*Vide* Mysore Act 13 of 1965, S. 68 & Sch. (1-10-1965)]

15. Conviction for third offence to disqualify persons from keeping saráis.—Where a keeper of a sarái is convicted of a third offence under this Act, he shall not afterwards act as keeper of a sarái without the licence in writing of the Magistrate of the District, who may either withhold such licence or grant the same on such terms and conditions as he may think fit.

16. Nothing in Act to apply to certain saráis.—No part of this Act, except Section 8, shall apply to any sarái which may be under the direct management of the ¹⁰[State Government] or of any Municipal Committee.

17. Extent of Act.—This Act shall in the first instance extend only to the ¹¹territories under the government of the Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William in Bengal.

7. *Subs.* for “Provincial Government” by A.O. 1950. Prior “Provincial Government” was *substituted* for “Local Government” by A.O. 1937.

8. *Subs.* for “local official Gazette” by A.O. 1937.

9. *See now* Sections 386, 387 and 389 of the Code of Criminal Procedure, 1898 (Act 5 of 1898).

10. *Subs.* for “Provincial Government” by A.O. 1950. Prior “Provincial Government” was *substituted* for “Local Government” by A.O. 1937.

11. Now that area form part of the U.P.

Power to State Government to extend this Act.—But it shall be lawful for the ¹²[State Government], by notification in the ¹³[Official Gazette], to ¹⁴extend this Act, *mutatis mutandis*, to any other part of ¹⁵[the territories under its government], except the towns of Calcutta, Madras and Bombay ¹⁶[* * *].

18. Short title.—This Act may be called the Saráís Act, 1867.

SCHEDULE

FORM OF NOTICE

Take notice that on the day of 1867, an Act called the Saráís Act, 1867, was passed, and that, before the day of 20, you, being keeper of a saráí [*or purao*] within [*here state the district over which the jurisdiction of the Magistrate giving the notice extends*], must have your saráí [*or purao*] registered, and that the register is to be kept at [*here state where the register is to be kept*] and that, if you do not have your saráí [*or purao*] so registered, you will be liable to a penalty not exceeding twenty rupees, and to a further penalty not exceeding one rupee a day for every day during which the offence continues, and that on your applying to [*here give the name and address of the person to keep the register*] he will register your saráí [*or purao*] free of all charge to you.

Dated the day of 20.....

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12. *Subs.* for "Provincial Government" by A.O. 1950. Prior "Provincial Government" was *substituted* for "Local Government" by A.O. 1937.
 13. *Subs.* for "Local Gazette" by A.O. 1937.
 14. It has been extended to Oudh. *See* Notification No. 591, dated 25-7-1883, in North-Western Provinces and Oudh Gazette, 1883, Part I, p. 433.
It has also been extended to the Punjab. *See* Notification No. 4499, dated 13-12-1879, in Punjab Government Gazette, 1879, Part I, p. 727.
 15. *Substituted* by the A.O. 1948 for "British India" which had been *substituted* by the A.O. 1937 for "the territories which are or may be vested in Her Majesty or Her Successors by the Statute 21 & 22 Vict., Ch. 106 (*an Act for the better Government of India*)".
 16. The words "and the Settlement of Prince of Wales' Island, Singapore and Malacca" *repealed* by Act 12 of 1891.