

Bengal Act I of 1885

[THE BENGAL FERRIES ACT, 1885.]

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Bengal Act I of 1885¹

[THE BENGAL FERRIES ACT, 1885.²]

AMENDED	REPEALED IN PART	Ben. Act V of 1919.	Act I
			Act II of 1901.
			(a) The Government of India (Adaptation of Indian Laws) Order, 1937.
			(b) The Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.
ADAPTED			(b) The Adaptation of Laws Order, 1950.

[27th May, 1885.]

An Act to regulate Ferries in Bengal,

WHEREAS it is expedient to regulate ferries within [the territories Preamble, subject to the Lieutenant-Governor of Bengal³]; .

It is enacted as follows:ô

Preliminary.

1, This Act may be called the Bengal Ferries Act, 1885.

Short title.

2. It shall extend to the States* of West Bengal and Bihar and to that part of the State⁶ of Orissa which on the first day of August 1885 was] commence, -
Governor of Bengali mem of Ac subject to the Lieutenant-

[And it shall come into force on such date" as the Lieutenant- Governor may, by notification in the Calcutta Gazette, appoint in this behalf.]

This Act should be read with s. 4 and Sch.] of the West Bengal *Ponchayat* Act, 1957 (West Ber. Act I of 1957).

¹ LEGISLATIVE POWERS.ô For Statement of Objects and Reasons, see the "Calcutta Gazette" of 1885, Pt. IV, page 39; and for Proceedings in Council, see *ibid.*, Supplement, pages 546, 553, 657 and 678.

LOCAL EXTENT.ô This Act EXTENDS to the whole of the former Province of Bengalô see s. 2.

This includes the present State of West Bengal and other territory.
Substituted for the words "all the territories" by para. 3(1) and the Sch. to the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

The word "States" was substituted for the word "Provinces" by para. 4(1) of the Adaptation of Laws Order, 1950.

The word "State" was substituted for the word "Province", *ibid.*

This Act came into force on the 1st August 1885ô see the "Calcutta Gazette" of 24th June 1885 (Pt. I n. i. p. i. fill)

(Preliminary.—Sections 3-5.—Part 1.—Public Ferries. Section 6.)

Regulation VI or 1619 mil Ben. Act I of 1866 repealed.

3. Regulation VI of 1819 and Bengal Act I of 1866 are hereby repealed; but all determinations, declarations, orders and rules made, engagements entered into and securities taken under such Regulation and Act shall be deemed to be respectively made, entered into and taken under this Act.

Act no IW apply to municipal Ferries.

4. Nothing in this Act contained shall apply to any ferry deemed or declared to be a municipal ferry under the provisions of the Bengal Municipal Act, [1932].

Interpretation.

5. In this Act, unless there be something repugnant in the subject or context, Ben. Act XV of 1932.

"Commissioner."

"Commissioner" means the Commissioner of a Division:

"Ferry."

"ferry" includes a bridge of boats, pontoons or rafts, a swing-bridge, a flying bridge, a temporary bridge, and a landing stage:

"Notification."

"notification" means a notification published in the *-[Official Gazette]*:

"Private ferries."

"private ferries" includes all ferries other than those declared to be public ferries, or established as such, under section 6 of this Act.

PART I.
Public Ferries.

Power to declare, establish, define and discontinue public ferries.

- 6. It shall be lawful for the [State Government] from time to time to
 - (a) declare what ferries shall be deemed public ferries, and the respective districts in which, for the purposes of this Act, they shall be deemed to be situate;
 - (b) take possession of a private ferry and declare it to be a public ferry; -
 - (c) establish new public ferries where, in [its] opinion, they are needed;
 - (d) define the limits of any public ferry;
 - (e) change the course of any public ferry; and
 - (f) discontinue any public ferry which [it] deems unnecessary.

(Part 1.—Public Ferries.—Sections 7-11.)

Every such declaration, establishment, definition, change or discontinuance shall be made by notification:

Provided that, when any alteration in the course or in the limits of a public ferry is rendered necessary by changes in the river on which such ferry is established, such alteration may be made, by an order in writing, by the Magistrate of the district.

¹The words "Provincial Government" were first substituted for the words "Lieutenant-Governor" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

This word was substituted for the word "his" by paragraph 5(2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

This word was substituted for the word "he", *ibid.*

7. The control of all public ferries shall be vested in the Magistrate of the district, subject to the direction of the Commissioner.

Control of public ferries vested in the Magistrate of the district.

8. The immediate superintendence of every public ferry shall be vested in the Magistrate of the district in which such ferry is situated, or in such other officer as the [State Government] may, from time to time, either by name or by official designation, appoint.

Superintendence of public ferries.

And such Magistrate or officer shall, except when the tolls at such ferry are leased, make all necessary arrangements for the supply of boats for such ferry, and for the collection of the authorized tolls leviable thereat.

Ferry tolls may be leased by auction.

9. The tolls of any public ferry may, from time to time, be leased by public auction for such term as the Magistrate of the district in which such ferry is situated may, with the approval of the Commissioner, direct.

The Magistrate of the district or the officer authorized by him to conduct such auction may, for sufficient reason to be recorded in writing, refuse to accept the offer of the highest bidder, and may accept any other bid, or may withdraw the tolls from auction.

Execution of contract by lessee.

The lessee of the tolls of every ferry which have been leased under this section shall execute a contract setting forth the conditions on which the tolls of such ferry are to be held, and shall give security for its due fulfilment.

Lessee of the tolls of a public ferry and his servants bound to conform to rules.

10. When the tolls of a public ferry have been duly leased, the lessee and every servant of the lessee shall be deemed to be legally bound to conform to the rules made under this Act for the management and control of such ferry.

11. On the requisition of the Magistrate of the district the person in charge of a public ferry situate in such district shall maintain at one or more places, in addition to the place at which the said public ferry is established, and within two miles therefrom, such number of subsidiary ferries as may

Provision for the establishment of subsidiary ferry.

'See footnote 3 on page 526. ante.

(Preliminary.—Part I.—Public Ferries.—Sections 12-15.)

seem to the Magistrate to be necessary for (the public convenience: and all the provisions contained in this Act in regard to the management and control of public ferries shall be deemed applicable to any subsidiary ferry maintained under the requisition of the Magistrate.

12. All arrears due by the lessee of the tolls of a public ferry on account of his lease; any pecuniary forfeiture for breach of contract inserted in the deed of contract or conditions of sale by public auction; and all sums due from the lessee on the surrender of his lease under section 14, may be recovered from the lessee or his surety (if any) as a demand under [the Bengal Public Demands Recovery Act, 1913] or any other Act at the time being in force for the recovery of public demands.

Recovery of arrears from lessee.

13. The lease of the tolls of any public ferry shall be liable to be cancelled al

Ben. Act 111 of 1913.

Power to cancel lease.

once by the Magistrate of the district in which such ferry is situated, if it shall appear to such Magistrate that the lessee has failed to make due provision for the convenience or safety of the public within fifteen days after being required to do so by a notice in writing from such Magistrate.

Surrender of lease.

14. The lessee of the tolls of a public ferry may surrender his lease on the expiration of one month's notice in writing to the Magistrate of the district in which such ferry is situated of his intention to surrender such lease, and on payment of such reasonable compensation as the Magistrate may, with the approval of the Commissioner, in each case direct.

15. The Magistrate of the district, with the approval of the Commissioner, may from time to time make rules consistent with this Act,ô

Power to make rules in regard to public ferries.

(a) for the management of all public ferries within such district, and for regulating the traffic at such ferries;

(b) for regulating the time and manner at and in which the ferries in which, and the person by whom, the tolls of such ferries may be leased by auction; -

(c) for compensating persons who have compounded for tolls payable for the use of any such ferry when such ferry has been discontinued before the expiration of the period compounded for; and

(d) generally, to carry out the purposes of this Act

And, when the tolls of a ferry have been leased under section 9, such Magistrate may, from time to time, with such approval as aforesaid, make additional rules consistent with this Act,ô

(e) for collecting the tolls payable for the tolls of such ferries;

(f) for regulating the returns of traffic to be, from time to time, submitted by the lessee of such ferries;

*These words and figure were substituted for the words and figures "Bengal Act VII of 1880" by s. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

(Part I.—Public Ferries—Sections 16, 17.)

- (g) in cases in which the communication is to be established by means of a bridge of boats, pontoons or rafts, or a swing-bridge, flying-bridge or temporary bridge, for regulating the time and manner at and in which such bridge shall be constructed and maintained, and opened for the passage of vessels and rafts through the same, and
- (h) in cases in which the traffic is conveyed in boats, for regulating the number and kinds of such boats and their dimensions and equipment; the number of the crew to be kept by the lessee for each boat; the maintenance of such boats in good condition; the hours during which, and the intervals within which, the lessee shall be bound to ply; and the number of passengers, animals and vehicles, and the bulk and weight of other things that may be carried in each kind of boat at one trip;

and may, from time to time, with such approval as aforesaid, repeal or alter such rules.

Rules made under this section shall be subject to the control of the [State Government], and shall be published in the *Official Gazette* in such manner as the [State Government] directs, and shall thereupon have the force of law.

16. No person shall, except with the sanction of the Magistrate of the district, maintain a ferry to or from any point within a distance of two miles from the limits of a public ferry:

Provided that, in the case of any specified public ferry, the [State Government] may, by notification, reduce or increase the said distance of two miles to such extent as [it] thinks fit:

Provided also that nothing hereinbefore contained shall prevent persons keeping boats to ply between two places, one of which is without, and one within, the said limits, when the distance between such two places is not less than three miles, or shall apply to boats which the Magistrate of the district expressly exempts from the operation of this section.

Private ferry
not to ply
within two
miles of public
ferry without
sanction.

17. Claims for compensation for any loss sustained by any person in consequence of a private ferry being taken possession of, or a new public ferry, or subsidiary ferry, being established under section 6 or section 11, shall be inquired into by the Magistrate of the district in which such ferry is situated, who shall, with the approval of the Commissioner, award compensation to any person who may appear justly entitled thereto.

¹See foot-note 3 on page 526, *ante*.
²foot-note 2 on page 526, *ante*.

The word was substituted for the word "he" by paragraph 5(2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

Claims for
compensa-
tion, and
what
amount to be
awarded.

(Part I.—Public Ferries.—Sections 18-21.—Part II.—Private Ferries.—
Section 22.)

Such compensation shall be calculated upon as estimate of the annual net profit actually realized by such person from such ferry on an average of the five years next preceding such declaration, and shall in no case exceed the amount of fifteen times such net annual profit.

Tolls. 18. Tolls, according to such rates as may, from time to time, be fixed by the Magistrate of the district with the approval of the Commissioner, shall be levied on all persons, animals, vehicles and other things crossing any river by a public ferry and not employed or transmitted on the public service:

Provided that the [State Government] may, from time to time, declare that any persons, animals, vehicles or other things shall be exempt from payment of such tolls.

Where the tolls of a ferry have been leased under section 9, any such declaration, if made after the date of the auction, shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be fixed by the Magistrate of the district under this section.

Table of
0 51 19. The lessee or other person authorised to collect the tolls of any public ferry shall affix a table of such tolls, legibly written or printed in the vernacular language, and also, if the Commissioner so directs, in English, in some conspicuous place near the ferry:

List of tolls, and shall be bound to produce, on demand, a list of the tolls signed by the Magistrate of the district or such other officer as he appoints in this behalf.

20. *f Tolls, rents, compensation and fines how to be appropriated.*—
Omitted by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

Compound-
ing for public 21. It shall be lawful for the Magistrate of the district in which a ferry is situated, with the approval of the Commissioner, from time to time to fix rates at which any person may compound for the tolls payable for the use of such ferry.

PART II.

Private Ferries.

Power to
private
ferries. 22. The Commissioner may from time to time make rules consistent with this Act, for the maintenance of order, and for the safety of passengers and properly, at private ferries situated in his division.

²See foot-note 3 on page 526. *ante.*

³See foot-note 2 on page 526. *ante.*

The words "notwithstanding anything contained in section 20," were repealed by s. 3 and Sch. I of the Bengal Repealing and Amending Act, 1926 (Ben. Act I of 1939).

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So much of section 15 as provides for the exemption from payment of tolls of any persons, animals, vehicles or other things which are exempted by section 3 of the Indian Tolls (Army) Act, 1901 (II of 1901), is repealed by s. 8 of that Act,
foot-note 3 on page 526, *ante*.

(Part III.—Penalties and Criminal Procedure.—Sections 23-27.)

Rules made under this section shall be subject to the control of the [State Government], and shall be published in the *[Official Gazette]* in such manner as the [State Government] directs, and shall thereupon have the force of law.

PART III,
Penalties and Criminal Procedure.

23. Every lessee or other person authorized to collect the tolls of a public ferry, who neglects to affix and keep in good order and repair the table of tolls mentioned in section 19,

or who wilfully removes, alters or defaces such table, or allows it to become illegible,

or who fails to produce on demand the list of the tolls mentioned in section 19, and every lessee who neglects to furnish any return required under section 15, shall be punished with fine which may extend to fifty rupees.

Penalty for breach of provisions as to table of tolls, list of tolls and return of traffic.

24. Every such lessee or other person as aforesaid asking or taking more than the lawful toll, or without due cause delaying any person, animal, vehicle or other thing, shall be punished with fine which may extend to one hundred rupees.

Penalty for taking unauthorised tolls, and for causing delay.

25. Every person breaking any rule made under section 15 or section 22 shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

Penalty for breach of rules made under section 15 and breach of rules on cancellation of lease.

26. When any lessee of the tolls of a public ferry makes default in the payment of the rent payable in respect of such tolls, or has been convicted of an offence under section 25, or, having been convicted of an offence under section 23 or section 24, is again convicted of an offence under either of those sections, the Magistrate of the district may, with the approval of the Commissioner, cancel the lease of the tolls of such ferry, and make other arrangements for its management during the whole or any part of the term for which the tolls were leased.

27. Every person crossing by any public ferry who refuses to pay the proper toll, and every person

Penalties on passengers offending.

who, with intent to avoid payment of such toll, fraudulently or forcibly crosses by any such ferry without paying the toll, or

(Part III.—Penalties and Criminal Procedure,—Sections 28-32.)

who obstructs any toll-collector, or lessee of the tolls of any public ferry, or any of his assistants in any way in the execution of their duty under this Act, or

who, after being warned by any such toll-collector, lessee or assistant not to do so, goes, or takes any animals, vehicles or other things, into any ferry-boat, or upon any bridge at such a ferry, which is in such a state or so loaded as to endanger human life or property, or

who refuses or neglects to leave, or remove any animals, vehicles or goods from any such ferry-boat or bridge on being requested by such toll-collector, lessee or assistant to do so, or

who moors any boat, raft or other substance to, or in any way obstructs, any part of a public ferry,

shall be punished with fine which may extend to fifty rupees,

28. Whoever conveys for hire any passenger, animal, vehicle or other thing in contravention of the provisions of section 16 shall be punished with fine which may extend to fifty rupees.

Penalty for
plying with
in
public ferry-
course
without
license.

Fines
payable to
lessee.

29. Where the tolls of any public ferry have been leased under the provisions hereinbefore contained, the whole or any portion of any fine realized under section 27 or section 28 may be, at the discretion of the convicting Magistrate or Bench of Magistrates, paid to the lessee.

Penalty for
rash
navigation
and slacking
of timber.

30. Whoever navigates, anchors, moors or fastens any vessel or raft, or stacks any timber, in a manner so rash or negligent as to damage a public ferry, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and the toll-collector or lessee of the tolls of such ferry, or any of his assistants, may seize and detain such vessel, raft or timber pending the inquiry and assessment hereinafter mentioned.

31. The police may arrest without warrant any person committing an offence against section 27 or section 30.

Power to
arrest
without
warrant.

Magistrate
may assess
damages
done by
offender.

32. Every Magistrate or Bench of Magistrates trying any offence under this Act may inquire into and assess the value of the damage (if any) done or caused by the offender to the ferry concerned, and shall order the amount of such value to be paid by him in addition to any fine imposed upon him under this Act; and the amount so ordered to be paid shall be leviable as if it were a fine, or when the offence is one under section 30 by the sale of the vessel, raft or timber causing the damage, and of anything found in or upon such vessel or raft.

(Part IV.—Miscellaneous.—Sections 33, 34.)

The Commissioner may, on the appeal of any person deeming himself aggrieved by an order under this section, reduce or remit the amount payable under such order.

PART IV.

Miscellaneous.

33. On the cancellation or surrender of a lease, the Magistrate of the district may take possession of all boats and other appliances and may either retain the same permanently on payment of a fair price to the proprietor, or may retain them for such time as may be necessary, not exceeding three months, until he can make arrangements for such other boats and appliances as may be necessary, in which case the Magistrate of the district shall pay a fair sum to the owners for the use of the said boats and appliances:

Power to take possession of boats and other appliances on surrender or cancellation of lease.

Provided that, within a week of taking such possession, the Magistrate of the district shall be bound to give notice to the said lessee of his intention to retain the said boats and appliances permanently, or for a period to be specified in the notice.

34. When any boats or their equipments, or any materials or appliances suitable for setting up a ferry, are emergently required for facilitating the transport of officers or troops of [Government] on duty, or of any other persons on the business of [Government] or of any animals, vehicles or baggage belonging to such officers, troops or persons, or of any property of [Government] the Magistrate of the district may take possession of and use the same (paying such compensation for the use thereof as the [Central Government, where the transport is in connection with the affairs of the Central Government, and the State³Government in other cases] may in each case direct) until such transport is completed.

Similar power in cases of emergency.

³These words were substituted for the word "Lieutenant-Governor" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.
Substituted for the words "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

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(Part IV.—Miscellaneous.—Sections 35, 36.)

Management
may be vested
in local
authority.

35. It shall be lawful for the State Government] ip order that thereupon [he ferries shall be managed accordingly].

any public ferry shall be managed by a local authority having jurisdiction over the area or any part of the area in which such ferry is situated; and such local authority shall have all the powers vested in the Magistrate of (he district under ihis Act except the powers specified in sections 7, 17 and 32, [and thereupon the ferries shall be managed accordingly.]

Manage
ment
may be
vested in
District
Board,

Ben. Act III
of 1885.

The State Government] may from time to time vary or annul any order made under this section.

²35. It shall be lawful for the "State Government] co order that any public ferry situated in any district in which a district board has been established under the provisions of *The Bengal Local Self- Government Act of 1885* shall be managed by such District Board; and such District Board shall have all the powers vested in the Magistrate of ihc district under this Act except the powers specified in sections 7, 17 and 32, ⁴[and

¹Section 35 is in force in this form in areas in which Bengal Act V of 1919 is in force. *See* Sch. I to this Act. Later, the present section 35 was substituted for the original by s 118A(2)(a) of, and Schedule I to, the West Bengal *Panchayat* Act, 1957 (West Ben, Act I of 1957).

²Section 35 is in force in this form in areas in which Bengal Act V of 1919 is not in force.

³These words were substituted for the words "Local Government" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴These words were substituted for the word "Lieutenant-Governor", *ibid.*

⁵These words were substituted for the words from "and the Lieutenant-Governor" (or, as the

ease may be, from "and the Local Government") to "accordingly" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁶See foot-note 3 on page 526, *ante*.

⁷This word was substituted for the word "he" by paragraph 5(2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

36. The ⁶[State Government] may, from time to time, delegate, under such restrictions as ⁶[it] thinks fit, any of the powers conferred on ⁵[ii] by this Act to any Commissioner or Magistrate of a district, or to such other officer or authority as ⁷[il] thinks fit, by name or by official designation.

"This figure was substituted for the figure "1884" by s. 2 and the First Sch. of the Bengal Repeating and Amending Act, 1938 (Ben. Act I of 1939).
These words were substituted for the words "Calcutta Gazette" by paragraph 1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

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"This word was substituted for [be words "Her Majesty" by para. 4(1) of the Adaptation of Laws Order, 1950.

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