

BENGAL FERRIES ACT, 1885

1 of 1885

[27th May, 1885]

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An Act to regulate Ferries in Bengal. Preamble. WHEREAS it is expedient to regulate ferries within the territories subject to the Lieutenant-Governor of Bengal; It is enacted as follows :

PART 1

Preliminary

1. Short title :-

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

2. Extent and commencement of Act :-

It shall extend to ¹[the States² of West Bengal and Bihar and to that part of the State² of Orissa which on the first day of August 1885 was] subject to the Lieutenant Governor of Bengal : [And it shall come into force on such date as the Lieutenant-Governor may, by notification in the Calcutta Gazette, appoint in this behalf].

1. Subs, by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order. 1948.

2. Word subs, by the Adaptation of Laws Order, 1950.

3. Regulation 6 of 1819 and Ben. Act 1 of 1866 repealed :-

Regulation 6 of 1819 and Bengal Act 1 of 1866 are hereby repealed; but all determinations, declarations, orders and rules made, engagements entered into and securities taken under such Regulation and Act shall be deemed to be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.

4. Act not to apply to municipal ferries :-

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, ¹ [1932].

1. Figures subs, by Ben. Act 1 of 1939.

5. Interpretation :-

In this Act, unless there be something repugnant in the subject or context, "Commissioner" means the Commissioner of a Division : "ferry" includes a bridge of boats, pontoons or rafts, a swing-bridge, a flying bridge, and temporary bridge, and a landing stage : "notification" means a notification published in the ¹ [Official Gazette] : "private ferries" includes all ferries other than those declared to be public ferries, or established as such, under section 6 of this Act.

1. Words subs, by the Government of India (Adaptation of Indian Laws) Order, 1937.

PART 2

Public Ferries

6. Power to declare, establish, define and discontinue public ferries :-

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. 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.

7. Control of public ferries vested in the Magistrate of the district :-

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

8. Superintendence of public ferries :-

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. 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.

9. Ferry tolls may be leased by auction :-

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. 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.

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

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. Provision for the establishment of subsidiary ferry :-

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 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. Recovery of arrears from lessee :-

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.

13. Power to cancel lease :-

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

14. Surrender of lease :-

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. Power to make rules in regard to public ferries :-

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

(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 terms 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.

(e) for collecting the rents 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;

(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 ¹[State Government], and shall be published in the ²[Official Gazette] in such manner as the ¹ [State Government] directs, and shall thereupon have the force of law.

1. Words subs, by the Government of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order, 1950, respectively.

2. Words subs, by the Government of India (Adaptation of Indian Laws) Order, 1937.

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

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 ¹[State Government] may, by notification, reduce or increase the said distance of two miles to such extent as ² [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.

1. Words subs, by the Government of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order, 1950, respectively.

2. Word subs. by the Government of India (Adaptation of Indian Laws) Order, 1937.

17. Claims for compensation, and what amount to be awarded :-

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. Such compensation shall be calculated upon an 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.

18. Tolls :-

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 ¹ [State Government] may, from time to time, declare that any persons, animals, vehicles or other things shall be exempt from payment of such tolls.

1. Words subs, by the Government of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order, 1950, respectively.

19. Table of tolls :-

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 : 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. Tolls, rents, compensation and fines how to be appropriated :-

Omitted by the Government of India (Adaptation of Indian Laws) Order, 1937.

21. Compounding for tolls :-

It shall be lawful for the Magistrate of the district in which a public 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 3

Private Ferries

22. Power to make rules in regard to private ferries :-

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 property, at private ferries situated in his division. Rules made under this section shall be subject to the control of the ¹[State Government], and shall be published in the ²[Official Gazette] in such manner as the ¹ [State Government] directs, and shall thereupon have the force of law.

1. Words subs, by the Government of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order, 1950, respectively.

2. Words subs, by the Government of India (Adaptation of Indian Laws) Order, 1937.

PART 4

Penalties and Criminal Procedure

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

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.

24. Penalty for taking unauthorised tolls, and for causing delay :-

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.

25. Penalty for breach of rules made under sections 15 and 22 :-

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.

26. Cancellation of lease on default or breach of rules :-

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. Penalties on passengers offending :-

Every person crossing by any public ferry who refuses to pay the proper toll, and every person who, with intent to avoid payment of such toll, fraudulently or forcibly crosses by any such ferry without paying the toll, or 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. Penalty for plying within public ferry-course without license :-

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.

29. Fines payable to lessee :-

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.

30. Penalty for rash navigation and stacking of timber :-

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. Power to arrest without warrant :-

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

32. Magistrate may assess damage done by offender :-

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. 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.

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

On the cancelment 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 :

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. Similar power in cases of emergency :-

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 ¹[Government] on duty, or of any other persons on the business of ¹[Government] or of any animals, vehicles or baggage belonging to such officers, troops or persons, or of any property of ¹[Government] the Magistrate of the district may take possession of and use the same (paying such compensation for the use thereof as the ⁴[Central Government, where the transport is in connection with the affairs of the Central Government, and the State⁵ Government in other cases] may in each case direct) until such transport is completed.

1. Word subs, by the Adaptation of Laws Order. 1950.

4. Words subs, by the Government of India (Adaptation of Indian Laws) Order, 1937.

5. Word subs, by the Adaptation Laws Order, 1950.

35. Management may be vested in local authority :-

¹It shall be lawful for the ²[State Government] to order that any public ferry shall be managed by a local authority having jurisdiction over the area or any part of the area in which such Jerry is situated; and such local authority shall have all the powers vested in the Magistrate of the district under this Act except the powers specified in sections 7, 17 and 32, ³ [and thereupon the

ferries shall be managed accordingly.]

1. Sec. 35 is in force in this form in areas in which Bengal Act 5 of 1919 is in force.
2. Words subs, by the Government of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order, 1950, respectively.
3. Words subs, by the Government of India (Adaptation of Indian Laws) Order. 1937.

35A. Management may be vested in District Board :-

¹It shall be lawful for the ²[State Government] to 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 the district under this Act except the powers specified in sections 7, 17 and 32, ³ [and thereupon the ferries shall be managed accordingly]. The [State Government] may from time to time vary or annul any order made under this section.

1. Sec. 35 is in force in this form in areas in which Bengal Act 5 of 1919 is not in force.
2. Words subs, by the Government of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order, 1950, respectively.
3. Words subs, by the Government of India (Adaptation of Indian Laws) Order. 1937.

36. Delegation of powers :-

The ¹[State Government] may, from time to time, delegate, under such restrictions as ²[it] thinks fit, any of the powers conferred on ²[it] by this Act to any Commissioner or Magistrate of a district, or to such other officer or authority as ² [it] thinks fit, by name or by official designation.

1. Words subs, by the Government of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order, 1950, respectively.
2. Word subs, by the Government of India (Adaptation of Indian Laws) Order, 1937.