

**West Bengal Restriction On Construction In Unsafe Areas
Act, 1979**

20 of 1979

[04 October 1979]

CONTENTS

1. Short title
2. Definitions
3. Inquiry on receipt of information
4. Declaration of unsafe area
5. Prohibition of construction without permission
6. Penalty
7. Power to demolish construction
8. Protection of action taken under this Act
9. Cognizance of offence
10. Compounding of offence
11. Appeal
12. Revision of order by the State Government in certain cases
13. Power to make rules
14. Provisions not to apply to mines
15. Repeal and savings

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PREAMBLE

An Act to provide for restriction on construction in areas found unsafe due to operation of mines or otherwise in West Bengal.

WHEREAS it is expedient in the public interest to provide for restriction on construction in areas found unsafe due to operation of mines or otherwise in West Bengal;

It is hereby enacted in the Thirtieth Year of the Republic of India, by the Legislature of West Bengal, as follows:-

1. For Statement of Objects and Reasons, see the Calcutta Gazette, Extraordinary, Part IV of the 12th September, 1979, page 2023; for proceedings of the West Bengal Legislative Assembly, see the

proceedings of the meeting of that Assembly held on the 17th September, 1979.

1. Short title :-

This Act may be called the West Bengal Restriction on Construction in Unsafe Areas Act, 1979.

2. Definitions :-

In this Act, unless the context otherwise requires,-

(a) "construction" means erection or re-erection of a building or structure or addition or alteration to any existing building or structure but shall not include repairs to any existing building or structure;

(b) "mine" shall have the meaning assigned to it in the Mines Act, 1952; (35 of 1952.)

(c) "notification" means a notification published in the Official Gazette;

(d) "prescribed" means prescribed by rules made under this Act.

3. Inquiry on receipt of information :-

The District Magistrate shall, on receipt of any information that any area, within the limits of his jurisdiction, is likely to subside due to operation of any mine or otherwise, forthwith cause an inquiry to be made into the matter by any officer having such qualifications and in such manner as may be prescribed.

4. Declaration of unsafe area :-

If, on the report of the inquiry, the District Magistrate is satisfied that any area within the limits of his jurisdiction is likely to subside due to operation of any mine or otherwise, he shall cause to be made, with reference to the finally published record-of-rights and map of the locality, a plan of the area likely to subside and by order published in the manner prescribed, declare such area to be unsafe.

5. Prohibition of construction without permission :-

When any area is declared unsafe under section 4, no construction within that area shall be commenced or continued without the previous permission in writing of the District Magistrate.

6. Penalty :-

Any person who, in contravention of the provisions of section 5, commences or continues any construction in an area declared unsafe under section 4 shall, without prejudice to any action that may be taken under section 7, be punishable with simple imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees or with both, and in the case of a continuing offence with a further fine which may extend to five hundred rupees for each day during which such contravention continues.

7. Power to demolish construction :-

Where any construction has been commenced or is being continued in contravention of the provisions of section 5, the District Magistrate having jurisdiction may, after giving the owner of such construction and also to the occupier (if the owner is not the occupier) an opportunity of being heard, make an order directing the demolition of the construction commenced or continued within such period as may be specified in the order and, in default, the District Magistrate may himself or through a person authorised by him in this behalf cause demolition of such construction and the cost thereof shall be recoverable by the District Magistrate from the owner of the construction as a public demand.

8. Protection of action taken under this Act :-

No suit, prosecution or other legal proceeding (including an action for damages) shall lie against the State Government or any person for anything in good faith done or intended to be done or for any damage caused or likely to be caused for anything in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

9. Cognizance of offence :-

No court shall take cognizance of any offence punishable under this Act except on the complaint, in writing, of the District Magistrate or any officer authorised by him in this behalf.

10. Compounding of offence :-

Any offence punishable under this Act may, either before or after the institution of the prosecution, be compounded by the District

Magistrate on such terms and conditions as may be prescribed.

11. Appeal :-

(1) Any person aggrieved by an order made by the District Magistrate under this Act may, within thirty days from the date of communication of the order to him, prefer an appeal against the order to the State Government in such manner as may be prescribed.

Explanation.-For the purposes of this sub-section, date of publication of the order in the prescribed manner shall be deemed to be the date of communication.

(2) An appeal under sub-section (1) shall be disposed of by the officer (not below the rank of a Secretary to the Government or a Divisional Commissioner) appointed by the State Government in that behalf, in the manner prescribed.

12. Revision of order by the State Government in certain cases :-

The State Government may, of its own motion or otherwise, revise an order made by a District Magistrate under the provisions of this Act.

13. Power to make rules :-

(1) The State Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which may be or is required to be prescribed.

14. Provisions not to apply to mines :-

Nothing in this Act shall apply to a mine as defined in clause (i) of sub-section (1) of section 2 of the Mines Act, 1952. (35 of 1952.)

15. Repeal and savings :-

(1) The West Bengal Restriction on Construction in Unsafe Areas Ordinance, 1979, is hereby repealed.

(2) Anything done or any action taken under the West Bengal Restriction on Construction in Unsafe Areas Ordinance, 1979, (West Ben. Ord. IV of 1979.) shall be deemed to have been validly done

or taken under this Act as if this Act had commenced on the 13th day of June, 1979.