

Bengal Act I of 1885¹

[THE BENGAL FERRIES ACT, 1885.²]

REPEALED IN PART	..	Act II of 1901.
AMENDED	..	Ben. Act V of 1919.
REPEALED IN PART AND AMENDED	..	Ben. Act I of 1939.
ADAPTED	..	(a) The Government of India (Adaptation of Indian Laws) Order, 1937.
		(b) The Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.
		(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 subject to the Lieutenant-Governor of Bengal³; Preamble.

It is enacted as follows:—

Preliminary.

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

2. It shall extend to ⁴[the States⁵ of West Bengal and Bihar and to that part of the State⁶ of Orissa which on the first day of August 1885 was] subject to the Lieutenant-Governor of Bengal³; Extent and commencement of Act.

[And it shall come into force on such date⁷ as the Lieutenant-Governor may, by notification in the Calcutta Gazette, appoint in this behalf.]

¹This Act should be read with s. 4 and Sch. I of the West Bengal Panchayat Act, 1957 (West Ben. Act I of 1957).

²LEGISLATIVE PAPERS.—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.—This Act extends to the whole of the former Province of Bengal—see s. 2.

³This includes the present State of West Bengal and other territory.

⁴Substituted 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.

⁵The word "States" was substituted for the word "Provinces" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁶The word "State" was substituted for the word "Province", *ibid*.

⁷This Act came into force on the 1st August 1885—see the "Calcutta Gazette" of 24th June 1885 Pt. I

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Regulation VI of 1819 and 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 Act I of 1866 repealed.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 Regulation VI of 1819 and Bengal Act I of 1866 are hereby repealed; but all determinations, declarations, orders and rules made, engagements entered into and securities taken under such Regulation and Act shall be deemed to be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 not to 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, ¹[1932].

Ben. Act XV of 1932.

Interpretation.

5. In this Act, unless there be something repugnant in the subject or context,—

"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 ²[*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 ³[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 ⁴[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 ⁵[it] deems unnecessary.

¹This figure was substituted for the figure "1884" by s. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

²These words were substituted for the words "*Calcutta Gazette*" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³The 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.

⁴This word was substituted for the word "his" by paragraph 5(2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁵This word was substituted for the word "he", *ibid.*

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(Part I.—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.

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.

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.

Ferry tolls may be leased by auction.

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.

Execution of contract by lessee.

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.

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

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.

¹See foot-note 3 on page 2 ante.

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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.

Recovery of
arrears from
lessee.

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 ¹[the Bengal Public Demands Recovery Act, 1913] or any other Act at the time being in force for the recovery of public demands.

Ben. Act III
of 1913.

Power to
cancel lease.

13. 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.

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.

Power to
make rules
in regard to
public
ferries.

15. 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;

¹These 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).

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- (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.

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 ¹[State Government] may, by notification, reduce or increase the said distance of two miles to such extent as ³[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.

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.

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

Claims for compensation, and what amount to be awarded.

¹See foot-note 3 on page 2, ante.

²See foot-note 2 on page 2, ante.

³This word was substituted for the word "he" by paragraph 5(2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

