

Bengal Act XVI of 1935

[THE BENGAL DEVELOPMENT ACT, 1935.]¹

AMENDED

West Ben. Act XXIV of 1954.
West Ben. Act IX of 1958.
West Ben. Act I of 1963.

ADAPTED

(a) The Government of India
(Adaptation of Indian
Laws) Order, 1937.
(b) The Indian Independence
(Adaptation of Bengal and
Punjab Acts) Order, 1948.
(c) The Adaptation of Laws
Order, 1950.

[3rd October, 1935.]

An Act to provide for the development of lands in Bengal and to impose a levy in respect of increased profits resulting from improvement works constructed by the Government.

WHEREAS it is expedient to provide for the development of lands in Bengal and for that purpose to impose a levy in respect of increased profits resulting from improvement works constructed by the Government and to provide further powers in regard to works of improvement;

AND WHEREAS the previous sanction of the Governor General has been obtained under sub-section (3) of section 80A of the Government of India Act to the passing of this Act;

It is hereby enacted as follows:—

1. (1) This Act may be called the Bengal Development Act, 1935.
- (2) It extends to the whole of ²[West Bengal].
- (3) It shall come into force on such date³ as the ⁴[State Government] may, by notification, appoint.

Short title,
extent and
commence-
ment.

5 and 6 Geo.
V. c. 61;
6 and 7 Geo.
V. c. 37;
9 and 10
Geo. V.
c. 101.

¹For Statement of Objects and Reasons, see the *Calcutta Gazette* of 1935, Pt. IV, page 49; and for report of the Select Committee, see *ibid.* page 150; and for Proceedings of the Council, see the Proceedings of the Bengal Legislative Council, Vol. XLV, No. 1, page 217, and *ibid.* No. 2, pages 78 and 121 and *ibid.* Vol. XLVI, No. 1, pages 88, 140, 188, 237, 289, 335 and 393.

²The words within square brackets were substituted for the word "Bengal" by Art. 3(2) of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

³This Act came into force on the 23rd January, 1936, vide Notification No. 1-1, dated the 20th January, 1936, published in the *Calcutta Gazette*, dated the 23rd January, 1936, Part I, page 194.

⁴The words "Provincial Government" were originally substituted for the words "Local Government" by para. 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

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(Section 2.)

Definitions.

2.

2. In this Act, unless there is anything repugnant in the subject or context,—

- (1) "agricultural lands" include lands used for the growing of vegetables and the like but does not include fruit gardens, orchards or homestead lands;
- (2) "canal" means a canal as defined in clause (f) of section 3 of the Bengal Irrigation Act, 1876;
- (3) "Collector" includes any officer specially appointed by the ¹[State Government] to perform all or any of the functions of a Collector under this Act;
- (4) "dead or decayed river" includes any river into which, or along any part of which, water has ceased to flow as freely as it would have flowed if it had not been diverted or obstructed whether owing to natural causes or as a result of interference by man, and includes also any depression which at one time formed part of a river-bed but through which there is no longer any perennial flow of water;
- (5) "improvement work" means any work of improvement ²[constructed, before the commencement of Part III of the Government of India Act, 1935, by any Government or constructed or proposed to be constructed after that date by the State Government] which the ¹[State Government] has, by notification, declared to be an improvement work for the purposes of this Act:

Provided that no road or railway constructed before the commencement of this Act shall be so declared;
- (6) "notification" means a notification published in the ³[Official Gazette];
- (7) "notified area" means any area in respect of which the ¹[State Government] has, by a notification issued under subsection (1) of section 5, declared its intention to impose an improvement levy, and includes any part of such area;
- (8) "period for objection" means a period mentioned in a notification under this Act within which objections or suggestions will be received;

Ben. Act III
of 1876.

26. Geo. V.
c. 2.

¹See foot-note 4 on page 1, ante.

²These words and figures, except the word "State" which was subsequently substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950, were substituted for the words "constructed by the Government, before or after the commencement of this Act, or proposed to be constructed by the Government" by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937.

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

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of 1935.]

(Sections 3-6.)

2. (9) "prescribed" means prescribed by rules made under this Act; and
- VIII of 1885. (10) "rent" and "tenant" have the same meanings as in the Bengal Tenancy Act, 1885.

3. Whenever, in the opinion of the ¹[State Government], any improvement work has increased or is likely to increase the profits from the produce from any agricultural land, or to increase the outturn of such produce, within any area, the ¹[State Government] may, by notification, declare its intention to impose an improvement levy within that area.

Preliminary notification of intention to impose improvement levy.

4. A notification under section 3 shall state the following particulars—

Publication of particulars.

- (a) as full a description of the improvement work as, in the opinion of the ¹[State Government], may be practicable;
- (b) the object for which such work has been, or is proposed to be, constructed; and
- (c) the boundaries of the area within which the ¹[State Government] intends to impose the improvement levy.

5. (1) After the expiry of a period for objection to be mentioned in a notification under section 3 the ¹[State Government] shall consider the objections and suggestions, if any, received by it and thereafter shall, by notification, declare its intention either wholly to refrain from imposing the improvement levy or to impose the same in the area concerned or in a specified part thereof, whereupon the area in respect of which the ¹[State Government] has by such a notification declared its intention to impose the improvement levy shall be deemed, for the purposes of this Act, to be a notified area.

Abandonment of intention or declaration of intention to impose improvement levy.

(2) The ¹[State Government] may, so far as may be in the manner hereinbefore provided, from time to time include in or exclude from any notified area any area which, in the opinion of the ¹[State Government], has benefited or has not benefited, as the case may be, from the improvement work.

6. No expenditure shall be incurred for the construction of any improvement work in respect of which the ¹[State Government] intends to impose an improvement levy, and no improvement levy shall be imposed in respect of any improvement work, unless the ²[West Bengal] Legislative ³[Assembly] has, by a resolution, recommended the imposition of an improvement levy in respect of such work:

Recommendation by the West Bengal Legislative Assembly for imposition of improvement levy.

¹See foot-note 4 on page 1 *ante*.

²See foot-note 2 on page 1 *ante*.

³This word was substituted for the word "Council" by para. 3 and Sch. IV to the Government of West Bengal (Amendment) Act, 1957.

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(Sections 7-9.)

7. Provided that nothing in this section shall apply to the Damodar Canal (including the Eden Canal) and ¹[the Mayurakshi Reservoir Project, including] the Bakreswar Canal.

Imposition of improvement levy.

7. When the ²[State Government] is satisfied that a notified area has benefited or is likely to benefit from an improvement work it may, by notification, subject to the provisions of section 6, impose the improvement levy in that area from such date as may be specified in the notification.

Estimate of increased outturn of produce from agricultural land.

8. (1) From time to time an officer appointed by the ²[State Government] shall, in accordance with rules made under this Act, and after hearing any objections in the prescribed manner, prepare in respect of land throughout a notified area an estimate of the average increase in the outturn of the produce from agricultural land of any class which, in his opinion, has been or is likely to be made possible by any improvement work, on the assumption that the land has produced and will produce the staple food crop notified under section 39 of the Bengal Tenancy Act, 1885, in respect of that land:

VIII of 1885.

Provided that the ²[State Government] may, at its discretion, direct that the estimate be made on the assumption that the land has produced or will produce some other crop or crops.

(2) The Board of Revenue shall, by notification, publish such estimate and, after a period for objection to be specified in such notification, shall consider the objections and suggestions, if any, received by it and shall report to the ²[State Government] thereon. Thereafter the ²[State Government] may reject the estimate or may, by notification, accept it with or without modification, whereupon the accuracy of any estimate so accepted shall not be questioned in any Court.

(3) Where an estimate has been accepted under sub-section (2) in respect of a notified area before the imposition of the improvement levy, such estimate shall, as soon as may be practicable after the expiry of two years from the date of the imposition of the levy, be revised in the manner provided in sub-section (1) and (2) for the preparation, publication, and acceptance of an estimate.

Fixing value of increased outturn.

9. The ²[State Government] shall, by notification, fix annually or for such period not exceeding five years as may be specified in the notification the price or prices on the basis of which the value of the average increase in the outturn, as estimated under section 8, from land of any class in a notified area is to be calculated.

¹The words within square brackets were inserted by s. 2 of the Bengal Development (Amendment) Act, 1954 (West Ben. Act XXIV of 1954).

