

Bengal Act III of 1876

[THE BENGAL IRRIGATION ACT, 1876.]¹

REPEALED IN PART	..	Ben. Act VII of 1880.
AMENDED	..	Ben. Act I of 1939.
REPEALED IN PART AND AMENDED	..	Act I of 1903.
ADAPTED	..	[(a) The Government of India (Adaptation of Indian Laws) Order, 1937. (b) The Adaptation of Laws Order, 1950.

[29th March, 1876.]

An Act to provide for irrigation in the Province subject to the Lieutenant-Governor of Bengal.

WHEREAS it is necessary to make provision for the construction, maintenance and regulation of canals, for the supply of water therefrom, and for the levy of rates for water so supplied, in the provinces subject to the Lieutenant-Governor of Bengal;

Preamble.

It is hereby enacted:—

PART I.

Preliminary.

1. This Act may be called the Bengal Irrigation Act, 1876;

Short title.

It shall take effect in those districts²[in the provinces]³[which were on the twenty-ninth March, eighteen hundred and seventy-six, subject to the Lieutenant-Governor of Bengal] to which the⁴[State Government] shall extend it by an order published in the⁵[*Official Gazette*]; and shall commence on the day which shall be in such order provided for the commencement thereof.

Local extent.

Commencement.

¹LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see the "*Calcutta Gazette*" of 1875, Pt. IV, page 76; for Report of Select Committee, see *ibid*, page 330, and for Proceedings in Council, see *ibid*, 1875, Supplement, pages 8, 412, 1497, *ibid*. 1876, Supplement, page 31.

LOCAL EXTENT.—This Act takes effect in West Bengal districts to which it is extended by order under section 1.

²This expression within square brackets shall stand unmodified. *Vide* para. 3 and the Eleventh Schedule of the Adaptation of Laws Order, 1950.

³These words were substituted for the words "subject to the Lieutenant-Governor of Bengal" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

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

⁵These words were substituted for the words "*Calcutta Gazette*" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

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2. [Repeal of Acts.]—Rep. by s. 4 and Schedule III of the Amending Act, 1903 (1 of 1903).

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

Interpreta-
tion-clause.

"Canal."

(1) "canal" includes—

- (a) all canals, channels and reservoirs hitherto constructed, maintained or controlled by Government for the supply or storage of water, or which may hereafter be constructed, maintained or controlled;
- (b) all works, embankments, structures, supply and escape-channels connected with such canals, channels or reservoirs;
- (c) all village-channels as defined in clause (2) of this section;
- (d) all drainage-works as defined in clause (3) of this section;
- (e) any part of a river, stream, lake, natural collection of water or natural drainage-channel to which the ¹[State Government] has applied the provisions of Part II of this Act, or of which the water has been applied or used before the passing of this Act for the purpose of any existing canal;
- (f) all lands on the banks of any canal as defined in articles (a), (b), (c), (d) and (e) of this clause, which have been acquired by Government:

"Village-
channel."

(2) "village-channel" means any channel by which water is led from a canal directly into the fields to be irrigated, and includes all subsidiary works connected with any such channel, except the sluice or outlet through which water is supplied from a canal to such channel:

"Drainage-
work."

(3) "drainage-work" means any work in connection with a system of irrigation which has been or may hereafter be made or improved by the Government for the purposes of the drainage of the country, whether under the provisions of Part IV of this Act or otherwise, and includes escape-channels from a canal, dams, weirs, embankments, sluices, groins and other works connected therewith, but does not include works for the removal of sewage from towns:

"Flood-
embank-
ment."

(4) "flood-embankment" means any embankment constructed or maintained by the ²[servants of the Government] in connection with any system of irrigation-works for the protection of lands from inundation, or which may be

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.

²The words "servants of the Crown" were first substituted for the words "Officers of Government" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "Government" was substituted for the word "Crown" by para. 4(1) of the Adaptation of Laws Order, 1950.

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declared by the ¹[State Government] to be maintained in connection with any such system; and includes all groins, spurs, dams and other protective works connected with such embankments:

(5) "Collector" means the head-revenue-officer of a district, and includes any officer appointed by the ¹[State Government] to exercise all or any of the powers of a Collector under this Act: "Collector."

(6) "Court" means ²* * * principal Civil Court of original jurisdiction: "Court."

* * * * *

unless when the ¹[State Government] has appointed (as ⁴[it] is hereby empowered to do), either specially for any case, or generally within any specified local limits, a judicial officer to perform the functions of a Judge under this Act, and then the expression "Court" means the Court of such officer:

(7) "canal officer" means an officer appointed under this Act to exercise control or jurisdiction over a canal or any part thereof; and includes every officer to whom any of the functions of a canal-officer under this Act have been assigned by the ¹[State Government]: "Canal-officer."

(8) "section" means a section of this Act: "Section."

(9) "owner" includes every person having a joint interest in the ownership of the thing specified; and all rights and obligations which attach to an owner under the provisions of this Act shall attach jointly and severally to every person having such joint interest in the ownership. "Owner."

Ben. Act VI of 1873.

4. Nothing contained in the Bengal Embankment Act, 1873, shall apply to any canal or flood-embankment as defined in this Act.

Exemption from Bengal Embankment Act.

5. The ¹[State Government] may from time to time declare by notification in the ²[Official Gazette], the officers by whom, and the local limits within which, all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed.

Power to appoint officers.

¹See foot-note 1 on page 2, ante.

²The words "in the Regulation Provinces" were omitted by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

³The words "and, in the Non-Regulation Provinces, the Court of a Commissioner of a Division" were omitted by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

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

⁵See foot-note 5 on page 1, ante.

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*(Part II.—Of the Application of Water for Public Purposes.—
Sections 6-9.)*

PART II.

Of the Application of Water for Public Purposes.Notification
when water-
supply to be
applied for
public
purposes.

6. Whenever it appears expedient to the ¹[State Government] that the water of any river or stream flowing in a natural channel, or of any lake or other natural collection of still water, should be applied or used by the Government for the purpose of any existing or projected canal,

the ¹[State Government] may, by notification in the ²[*Official Gazette*], declare that the said water will be so applied or used after a day to be named in the said notification, not being earlier than three months from the date thereof.

Powers of
canal-officer.

7. At any time after the day so named, any canal-officer acting under the orders of the ¹[State Government] in this behalf may enter on any land and remove any obstructions, and may close any channels, and do any other thing necessary for such application or use of the said water.

Notice as to
claims for
compensa-
tion.

8. As soon as is practicable after the issue of such notification, the Collector shall cause public notice to be given at convenient places stating that the Government intends to apply or use the said water as aforesaid, and that claims for compensation in respect of the matters mentioned in section 11 may be made before him.

A copy of sections 11, 12 and 13 shall be annexed to every such notice.

Contents of
notice.

9. When any claim for compensation is made before the Collector in accordance with the last preceding section, the Collector shall issue a notice requiring all persons interested in the matter in respect of which compensation is claimed to appear personally or by agent before him at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the property affected, and the amount and particulars of their claims to compensation for such interests.

Notice to
occupiers.

The Collector shall also serve notice to the same effect on the occupier (if any) of the land entered on, and on such persons known or believe to be interested in the matter in respect of which compensation is claimed, or to be entitled to act for persons so interested, as reside within his district.

¹See foot-note 1 on page 2. *ante*.

²See foot-note 5 on page 4. *ante*.

