

# Bengal Act XIII of 1936

## [THE BENGAL WATER HYACINTH ACT, 1936.]<sup>1</sup>

AMENDED	..	Ben. Act IV of 1941.
ADAPTED	..	<div style="border-left: 1px solid black; padding-left: 5px;">                     The Government of India                      (Adaptation of Indian Laws)                      Order, 1937.                      The Indian Independence                      (Adaptation of Bengal and                      Punjab Acts) Order, 1948.                      The Adaptation of Laws                      Order, 1950.                 </div>

[28th May, 1936.]

*An Act to provide for the destruction of water hyacinth in Bengal.*

WHEREAS it is expedient to make better provision for preventing the spread of water hyacinth in Bengal and for its destruction;

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 Water Hyacinth Act, 1936.
- (2) It extends to the whole of <sup>2</sup>[West Bengal].
- (3) It shall come into force on such date<sup>3</sup> as the <sup>4</sup>[State Government] may, by notification, appoint.

Short title,  
extent and  
commence-  
ment.

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

Definitions.

- (1) "Authorised Officer" includes the Collector and any person authorised by the Collector to exercise the functions of an Authorised Officer under sections 7, 8, <sup>5</sup>[9 and 13A];

<sup>1</sup>For Statement of Objects and Reasons, see the *Calcutta Gazette, Extraordinary*, dated the 9th December, 1935, Part IV, page 96; and for report of the Select Committee, see the *Calcutta Gazette* of 1936, Pt. IV, page 52; and for Proceedings of the Bengal Legislative Council, see the Proceedings of the Bengal Legislative Council, Vol. XLVII, No. 2, page 286, and *ibid.*, Vol. XLVIII, No. 1, pages 76 and 353.

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

<sup>3</sup>This Act came into force on the 1st August, 1936, vide notification No. 4376 Agr., dated the 9th July, 1936, published in the *Calcutta Gazette*, dated the 16th July, 1936, Pt. I, page 1733.

<sup>4</sup>The 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.

<sup>5</sup>The word, figures and letter within square brackets were substituted for the word and figure "and 9" by s. 2 of the Bengal Water Hyacinth (Amendment) Act, 1941 (Ben.

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

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(Sections 3-5.)

- (2) "Collector" includes any person appointed by the <sup>1</sup>[State Government] to exercise all or any of the functions of a Collector under this Act;
- (3) "Court" means a principal Civil Court of original jurisdiction unless the <sup>1</sup>[State Government] has appointed (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform the functions of the Court under this Act;
- (4) "notification" means a notification published in the <sup>2</sup>[Official Gazette];
- (5) "notified area" means an area specified in a notification issued under section 7;
- (6) "occupier" means the person in actual occupation of any land, premises or water or, if there is no one in actual occupation, the person having the right of occupation of the land, premises or water or his authorised agent; and includes a local authority, a railway administration and a company in actual occupation or having such right of occupation;
- (7) "prescribed" means prescribed by rules made under this Act; and
- (8) "water hyacinth" means the plant botanically known as *Eichhornia crassipes*—Solms and includes the seed and any part of the plant.

Prohibition of bringing water hyacinth into West Bengal.

3. No person shall, himself or by any other person on his behalf, bring water hyacinth into <sup>3</sup>[West Bengal].

Prohibition of sale, etc., of water hyacinth.

4. No person shall, directly or indirectly himself or by any other person on his behalf, sell, expose for sale or keep for sale water hyacinth.

Prohibition of growing or cultivation of water hyacinth.

5. No person shall grow or cultivate water hyacinth in any garden or in any ornamental water or receptacle.

<sup>1</sup>See foot-note 4 on page 1, ante.

<sup>2</sup>The words within square brackets were substituted for the words "Calcutta Gazette" by para. 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>3</sup>See foot-note 2 on page 1, ante.

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(Sections 6-8.)

6. No person shall, himself or by any other person on his behalf, remove any water hyacinth—

- (a) to any land, premises or water in his occupation except with a view to its being destroyed, or
- (b) to any land, premises or water in the occupation of another person except for the purpose aforesaid and with the consent of such other person, or
- (c) to any land, premises or water in the occupation of <sup>1</sup>[any Government] except for the purpose aforesaid and with the consent of the Collector.

Prohibition of removing water hyacinth from one place to another.

*Explanation.*—The expression “remove water hyacinth” includes the causing of it to float by water from one place to another.

7. (1) The <sup>2</sup>[State Government] may, by a notification, direct that within such local area and after such period as may be specified in the notification, no occupier shall allow water hyacinth to exist on any land, premises or water in his occupation.

Power to State Government to prohibit occupiers from allowing water hyacinth to exist within certain local area.

(2) The substance of such notification shall be published in the notified area in such manner as may be prescribed.

(3) After the issue of a notification under sub-section (1) every occupier in the notified area shall cause any water hyacinth that may, from time to time, be present on any land, premises or water in his occupation to be removed or destroyed.

(4) If any occupier in a notified area fails to comply with the provisions of this section in respect of any land, premises or water in his occupation, any Authorised Officer may, together with such persons as he may consider necessary for the purpose, enter on such land, premises or water and take such measures as are in his opinion necessary for removing or destroying the water hyacinth.

8. (1) With a view to facilitating the discovery or destruction of water hyacinth, an Authorised Officer may, subject to any rules made under this Act, by a notice served in the prescribed manner, direct an occupier of any land, premises or water within a notified area to cause—

Cutting of branches of trees or shrubs to facilitate discovery or destruction of water hyacinth.

- (a) any branches of trees or shrubs on any such land or premises which overhang the edge of any river, stream, waterway, ditch, marsh, *bil*, lake, tank, pond, pool or pit to be cut back and any undergrowth or jungle thereon to be removed from such edge, within a distance specified in the notice, or

<sup>1</sup>The words within square brackets were substituted for the word “Government” by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>2</sup>See foot-note 4 on page 457. *ante*.

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- (b) any vegetation appearing above the surface of any such water to be removed from the water,

within such period as may be specified in the notice.

(2) If such occupier fails to comply with a notice under sub-section (1), any Authorised Officer may, together with such persons as he may consider necessary for the purpose, enter on such land, premises or water and cause the branches of such trees or shrubs to be so cut back and such undergrowth or jungle or such vegetation to be removed.

Power to Authorised Officer to enter on land, etc., in certain circumstances.

9. An Authorised Officer may at any time, together with such persons as he may consider necessary for the purpose, enter on any land, premises or water in a notified area and take such action as may be necessary in order to ascertain—

- (a) whether any water hyacinth is present, and  
(b) whether the measures prescribed for the removal or destruction of water hyacinth or any directions issued on the occupier under sub-section (1) of section 8 have been carried out.

Restriction on entry by Authorised Officer.

10. An Authorised Officer shall not enter under sub-section (4) of section 7 or sub-section (2) of section 8 or under section 9 into any dwelling house or any enclosed courtyard or garden attached to a dwelling house (except with the consent of the occupier thereof) without previously giving such occupier twenty-four hours' notice in writing of his intention to do so.

Recovery of costs for works done by Authorised Officer.

11. Any costs incurred by the Authorised Officer for carrying out any measures under sub-section (4) of section 7 or sub-section (2) of section 8 shall be recoverable from the occupier as a public demand payable to the Collector.

Power to Collector to take possession of land or water for recovery of costs.

12. If the Collector fails to recover, or considers it inadvisable to recover, any costs under section 11 he may, subject to any rules made under this Act, in his discretion, enter on and take possession of any land or water in respect of which the costs are due after giving notice to the occupier and retain possession thereof and turn the same to profitable account until the said costs together with interest thereon at such rate, not exceeding six and a quarter *per cent. per annum* as the [State Government] may prescribe, have been realized from the profits or paid by the occupier.

<sup>1</sup> See foot-note 4 on page 1 *ante*.

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(Sections 13, 13A.)

13. (1) Subject to any rules made under this Act, the Collector may permit or cause fences, barriers or storage pounds to be constructed in or along the edge of any river, stream, waterway, lake, tank, marsh or *bil* whether public or private within a notified area, and booms or floating barriers to be placed or maintained therein, for the purpose of checking or diverting the movement of water hyacinth.

Construction  
of fences,  
barriers, etc.

(2) No person shall remove or damage any fences, barriers, storage pounds, booms and floating barriers constructed, placed or maintained under sub-section (1).

13A. (1) An Authorised Officer may cause a scheme and estimate to be prepared for the construction and maintenance of any work referred to in sub-section (1) of section 13.

Cost of  
work under  
section 13.

(2) As soon as possible after the preparation of the scheme and estimate the Authorised Officer shall prepare a preliminary list of apportionment, showing the names of persons likely to be benefited by the work and the portion of the cost thereof approximately payable by each such person, and shall, in the prescribed manner, publish a general notice inviting objections to the scheme, estimate, or list of apportionment by any person interested in, or likely to be benefited by, the scheme within such period as may be specified in the notice.

(3) The Collector shall, as soon as possible after the expiry of the period specified in the notice published under sub-section (2), proceed in the prescribed manner to consider any objections received in regard to the scheme, estimate or preliminary list of apportionment.

(4) Subject to such rules as may be prescribed in this behalf, the Collector may accept the scheme, estimate and list of apportionment with such modifications as he may deem necessary, and the decision of the Collector thereon shall be final.

(5) On the completion of the work referred to in sub-section (1) of section 13, the cost of the work shall be entered by the Authorised Officer in a final list of apportionment in accordance with the decision of the Collector under sub-section (4), and that portion of the cost which is so entered against the name of each person in the said list shall be the amount recoverable from that person.

(6) The amount referred to in sub-section (5) shall be recovered in the manner provided in sections 11 and 12.

*Explanation.*—For the purposes of this section 'cost' includes—

- (a) the total expenditure incurred for surveys, plans, estimates, valuations and incidental expenses connected with any scheme, whether antecedent or subsequent to the adoption of the scheme, and all expenses incurred in its execution;

<sup>1</sup>This new section was inserted by s. 3 of the Bengal Water Hyacinth (Amendment)

