

The Tamil Nadu Canals and Public Ferries Act, 1890

TAMILNADU

India

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Act 2 of 1890

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The Tamil Nadu Canals and Public Ferries Act, 1890 Act No. 2 of 1890 Statement of Objects and Reasons - Tamil Nadu Canals and Public Ferries Act, 1890 (Tamil Nadu Act II of 1890). - The Canal and Ferries Act of 1870 together with the Amending Act of 1878 had been found to be defective, and it had been impossible to extend their operation to the Godavari and Kistna canals and the whole of the Buckingham Canal owing to the requirement that all revenue realised under these Acts should be carried to the credit of a special fund which could be applied only to a special purpose. It was obviously unreasonable that when large sums of public money had been expended in the construction of projects, such as those name the navigation revenue should not be credited to the projects, but should be merged in a special fund, such as the Canal and Ferry Fund, established under the existing Acts. There was no legislative sanction for the somewhat elaborate rules for controlling navigation on these canals which had been issued on executive orders, and the only way in which these rules could be enforced was by refusing the use of the canals to vessels offending. Some of these rules also imposed liability to legal penalties and these could, of course, be questioned. The Canals and Ferries Act had been applied to a portion of the Buckingham Canal; but, notwithstanding this fact, there was but one system of licences for this and the Godavari and Kistna canals and the Revenues from the portion under the Act were not credited as the law required to the Canal and Ferry fund. The Act of 1870 which was applied to a canal or ferry could not be withdrawn from operation, and legislation was necessary to remedy such a state of things. The Act did not empower the Government to levy wharfage or dock and warehouse fees, or even to regulate such matters as the quantity of goods or number of passengers to be carried in vessels plying on canals or ferries. In these circumstances, the present Bill has been drafted. It enables the Government to declare the officers or classes of officers by whom powers shall be exercised. It declares the income from canals and ferries to be Public Revenue and makes rents of leased collections recoverable as such. It enables the Government to place canals or ferries under the management of Local and Municipal bodies, in which case the Revenue arising therefrom is to be credited to local or municipal funds and will then be available for the general purposes of these funds. This course it was thought might probably be adopted in the case of all public ferries. It provides for the levy of wharfage, etc., fees and it confers upon the Government ample powers of making rules for the regulation of traffic. Published in Fort George Gazette Supplement, dated the 3rd December 1889, p. 3; for Report

of the Select Committee, see *ibid*, dated the 25th February 1890, p. 1; for Proceedings in Council, see *ibid*, dated the 28th January 1890, p. 2 and *ibid*, dated the 1st April 1890, p. 3. Received the assent of the Governor on the 1st April 1890, and that of the Governor-General on the 9th May 1890. An Act to make better provision for the establishment of canals and public Ferries in the [State of Tamil Nadu] [Substituted for the expression 'Presidency of Madras' by the Tamil Nadu Adaptation of Laws Order, 1970, which was deemed to have come into force on the 14th January 1969.] and for the management thereof. Preamble. - Whereas it is expedient to make better provision for the establishment of canals and public ferries in the [State of Tamil Nadu] [Substituted for the expression 'Presidency of Madras' by the Tamil Nadu Adaptation of Laws Order, 1970, which was deemed to have come into force on the 14th January 1969.] and for the management thereof; It is enacted as follows:-

1. Short title and local extent.

- This Act may be called the [Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969, which came into force on the 14th January 1969.] Canals and Public Ferries Act, 1890. It extends to the whole of the [State of Tamil Nadu] [Substituted for the expression 'Presidency of Madras' by the Tamil Nadu Adaptation of Laws Order, 1970, which was deemed to have come into force on the 14th January 1969.]. This Act was extended to the merged State of Pudukkottai by section 3 of, and the First Schedule to the Tamil Nadu Merged States (Laws) Act, 1949 (Tamil Nadu Act XXXV of 1949). This Act was further extended to the Kanyakumari district and the Shencottah taluk of the Tirunelveli district by section 3 of, and the First Schedule to, the Tamil Nadu (Transferred Territory) Extension of Laws Act, 1960 (Tamil Nadu Act 23 of 1960), which came into force on the 1st April 1961 repealing the corresponding law in that territory.

2.

[Repealed by the Repealing and Amending Act, 1901 (Central Act XI of 1901).]

3. Definitions.

- In this Act "ferry" includes any ship, barge, boat, raft, timber, bamboos or floating materials propelled in any manner; "channel" includes any waterway, whether natural or artificial; "line of navigation " means any navigable channel, or series of connected navigable channels; "canal" means a line of navigation declared to be subject to the provisions of this Act; "ferry" means a place at which goods, animals or passengers are conveyed across a channel by means of vessels; "public ferry" means a ferry declared to be subject to the provisions of [sections 9 to 18 of this Act] [Substituted for the words 'this Act' by Madras Act XX of 1941. This Act was permanently re-enacted by section 2 of, and the First Schedule to, the Tamil Nadu Re-enacted and Repealing (No. 1) Act, 1948 (Tamil Nadu Act VII of 1948).].

4. Power to apply Act to any line of navigation.

- The [State Government] [The words 'Provincial Government' were substituted for the words 'Governor in Council' by the Adaptation Order of 1937 and the word 'State' was substituted for 'Provincial' by the Adaptation Order of 1950.] may, by notification in the [Official Gazette] [Substituted for the words 'Fort St. George Gazette' by the Adaptation Order of 1937.], declare any line of navigation to be subject to the provisions of this Act from the date to be named in such notification, and may in like manner cancel or modify any such notification.

5. [Vessels to be registered or licensed as directed by Government. [Substituted by section 1 of the Madras Act V of 1895.]

- All vessels using a canal shall be either licensed or registered as the [State Government] may direct:][Provided that the [State Government] [Proviso was added to section 5 by section 2 of the Madras Act V of 1914.] may exempt from the operation of this section all or any vessels or classes of vessels using a canal or portion of a canal.]

6. Power to fix fees and rates of toll and to establish toll-stations.

- The [State Government] [The words 'Provincial Government' were substituted for the words 'Governor in Council' by the Adaptation Order of 1937 and the word 'State' was substituted for 'Provincial' by the Adaptation Order of 1950.] may, from time to time,-(a)fix rates of fees payable for the licensing or registration of vessels;(b)establish stations at which tolls shall be levied on vessels passing along a canal or on passengers, vehicles, animals or goods landed therefrom, and fix the rates of such tolls;(c)fix fees for the use of public landing places, wharves, piers, jetties, docks, basins, lie-byes, sidings, sheds or ware-houses, provided for the accommodation of vessels using a canal or of goods or passengers carried or to be carried thereon and for demurrage on vessels or goods detained therein.A notification of such tolls or fees under clauses (b) and (c) of this section shall be exhibited to public view in English and in the vernacular language of the district at the places where such tolls or fees are leviable.

7. Power of person duly authorised to impose punishment for breach of condition of licence and to deal with any obstruction or with navigation in contravention of Act.

- Any person duly empowered by [the State Government] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation Order of 1937 and the word 'State' was substituted for 'Provincial' by the Adaptation Order of 1950.] in this behalf may-(i)suspend or cancel the licence or registration of any vessel in case of breach of any condition thereof, or in lieu of such suspension or cancellation of prosecution may recover from the person in charge of the vessel a penalty not exceeding five rupees for each such breach;(ii)remove from the canal any vessel which may be sunk or abandoned therein, and may recover any expense incurred in so doing by the sale of the vessel; a vessel left for more than three days without a competent person in charge shall be held

to be abandoned;(iii)in case of emergency remove any other construction, or contrivance for fishing, or other thing which is an impediment to navigation, or in other cases serve notice upon the owner, if any, to remove any such thing within a reasonable time to be stated in the notice, failing which he may remove it himself. Expenses incurred under this clause shall be recoverable from the owner:Provided always that, in cases of interference with private rights reasonable compensation shall be payable;(iv)prohibit the construction of any contrivance for. fishing or for any other purpose in the canal or any erection therein or on a tow-path or other land appurtenant thereto;(v)stop any vessel navigating the canal in contravention of any of the provisions of this Act or of any rule made or any condition of licence or registration prescribed thereunder, and may detain it until the same is complied with or until penalty has been paid or recovered under clause (i) of this section or until the offence, if any, has been inquired into and disposed of. Powers under this section may be conferred either by name or in virtue an office.

7A. [Power to declare that femes not being public ferries shall be subject to rules for securing the safety of passengers. [Inserted by section 3 of the Canals and Public Ferries (Amendment), Act, 1941 (Madras Act XX of 1941). This Act was permanently re-enacted by section 2 of, and the First Schedule to, the Tamil Nadu Re-enacting and Repealing (No. 1) Act, 1948 (Tamil Nadu Act VII of 1948).]

(1)The [State] Government may, by notification in the [Fort St. George Gazette] [Now Tamil Nadu Government Gazette.], declare that any ferry, not being a public ferry, shall be subject to any rules made by them under this section for the purpose of securing the safety of passengers conveyed across the ferry.(2)In particular and without prejudice, to the generality of the foregoing power, such rules may provide for-(i)the types of vessels that may be used for conveying passengers across the ferry; and(ii)the number of passengers that may be so conveyed on vessels of each such type.]

8. Power to apply Act to any ferry and define limits of ferry.

- The [State Government] [The words 'Provincial Government' were substituted for the words 'Governor in Council' by the Adaptation Order of 1837 and the word 'State' was substituted for 'Provincial' by the Adaptation Order of 1950.] may, by notification in the [Official Gazette] [Substituted for the words 'Fort St. George Gazette' by the Adaptation Order of 1937.], declare any ferry to be subject to the provisions of [sections 9 to 18 of this Act] [Substituted for the words 'this Act' Madras Act XX of 1941. This Act was permanently re-enacted by section 2 of, and the First Schedule to, the Tamil Nadu Re-enacting and Repealing (No. 1) Act, 1948 (Tamil Nadu Act VII of 1948).] from a date to be named in such notification, and may define the limits of such ferry. The [State Government] [The words 'Provincial Government' were substituted for the words 'Governor in Council' by the Adaptation Order of 1837 and the word 'State' was substituted for 'Provincial' by the Adaptation Order of 1950.] may, in like manner, cancel or modify any such notification.

9. Upon such application existing rights of ferry to case.

- From such date all previously existing rights of ferry within the limits defined in the notification shall cease and determine and it shall be unlawful for any person not duly authorized to convey goods, animals or passengers by means of vessels across a channel within such limits while such notification is in force :Provided that, when rights of ferry are extinguished under this section, compensation shall be payable for such extinction and shall be assessed as near as may be under any law for the time being in force relating to the acquisition of land for public purposes.

10. [Power to provide for management of ferries and fix fees and rates of tolls. [Substituted for Tamil Nadu Act VII of 1939.]

(1)The [State] Government may-(a)provide for the management of any public ferry,(b)authorize any person to convey passengers, animals, vehicles or goods across a channel by means of vessels at any public ferry, or(c)assign the management of any public ferry to a local board or municipal council.(2)All vessels used by a person authorized under clause (6) of sub-section (1) shall be licensed, and the [State] [Substituted for the word 'Provincial' by the Adaptation Order of 1950.] Government may fix the fees payable for such licence.(3)In the cases referred to in clauses (a) and (6) of sub-section (1), the [State] [Substituted for the word 'Provincial' by the Adaptation Order of 1950.] Government may levy tolls at such rates as they may fix upon passengers, animals, vehicles and goods conveyed across the ferry.(4)Where under clause (c) of sub-section (1), the management of a public ferry is assigned to a [local board or municipal council] [Now panchayat union council or panchayat.] may levy tolls upon passengers, animals, vehicles and goods conveyed across the ferry at such rates as it may, subject to the control of the [State] [Substituted for the word 'Provincial' by the Adaptation Order of 1950.] Government, fix. [The net revenues derived from the management of the ferry shall be distributed between the authorities (including the State Government) maintaining approach roads at either end of the ferry, in such proportions and subject to such conditions as the State Government may, from time to time, by notification, direct.] [Substituted for the original sentence by Tamil Nadu Act 1 of 1956, which shall be deemed to have come into force on the 6th November 1947.](5)A notice in English and in the language of the district specifying the tolls leviable at a ferry under sub-section (3) or sub-section (4), as the case may be, shall be exhibited to public view on each side of the ferry.]

11. Power to assign management of canal to district board or municipal council.

- The management of any canal [* * *] [The words 'or public ferry' were omitted by Tamil Nadu Act VII of 1939.] may, by order of the [State Government] [The words 'Provincial Government' were substituted for the words 'Governor in Council' by the Adaptation Order of 1937 and the word 'State' was substituted for 'Provincial' by the Adaptation Order of 1950.], be assigned to a [local board or municipal council] [The words 'and thereupon, In every such case the revenue accruing therefrom shall be credited to the finds of such managing authority' were omitted by the Adaptation Order of 1937.] [x x x] [The words 'and thereupon, In every such case the revenue accruing therefrom shall be

credited to the finds of such managing authority' were omitted by the Adaptation Order of 1937.] which shall exercise all the powers stated in section 7, and may, subject to the control of the State Government, confer such powers on its servants. All persons duly empowered under section 7 shall be deemed to be public servants within the meaning of the Indian Penal Code (Central Act XLV of 1860).

12. Power to appoint persons to collect tolls or fees and to lease out collection thereof.

- The [State Government] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation Order of 1937 and the word 'State' was substituted for 'Provincial' by the Adaptation Order of 1950.] or the managing authority shall appoint persons to collect tolls or fees payable under this Act. The collection of such tolls or of fees other than licence-fees may, under such conditions as the [State Government] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation Order of 1937 and the word 'State' was substituted for 'Provincial' by the Adaptation Order of 1950.] may from time to time prescribe, be leased out and in such case the lessee and his agents and servants shall be deemed to be so appointed.

13. Procedure in case of non-payment of toll, etc., on demand.

- In case any tolls, fees other than licence-fees or penalties payable under this Act are not paid when demanded by a person duly appointed or empowered to collect or impose the same, such person may seize any vessel, goods, vehicles or animals in respect of which such toll, fee or penalty is payable or anything in the possession of a passenger or person who is liable to such toll, fee or penalty, and any person empowered by the [State Government] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation Order of 1937 and the word 'State' was substituted for 'Provincial' by the Adaptation Order of 1950.] or the managing authority in this behalf may sell the same by auction after fifteen days' public notice of the sale if such toll, fee or penalty is still unpaid. After deduction of such toll, fee or penalty and of the expenses of sale, the surplus proceeds, if any, shall be paid to the person from whose possession the thing sold was taken.

14. What payments may be recovered as arrears of revenue.

- All canal and ferry rents and expenses incurred under section 7 may be recovered by the Collector of the district in like manner as if they were arrears of land revenue :[Provided that any ferry rent due to a Hocal board or municipal council shall be recovered as if the same were a tax due to the [local board or municipal council.] [Proviso was added by section 4 of the Canals and Public Ferries (Amendment) Act, 1939 (Tamil Nadu Act VII of 1939).]

15. Form, etc., of licences and registrations.

- All licences granted and registrations effected under this Act shall be in such form, shall be valid for a voyage or for such time, and shall contain, or be subject to, such conditions as the [State Government] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation Order of 1937 and the word 'State' was substituted for 'Provincial' by the Adaptation Order of 1950.] may from time to time direct.

16. Power to make rules.

- The [State Government] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation Order of 1937 and the word 'State' was substituted for 'Provincial' by the Adaptation Order of 1950.] may make rules in rules, respect of any canal or public ferry for all or any of the following purposes :-(i)declaring the powers to be exercised by any person employed under this Act;(ii)providing for the grant of licences, for the inspection of licensed vessels, and for their maintenance in good condition;(iii)regulating the dimensions of free board of vessels using any canal or public ferry, the equipment of the same, and the number of passengers and the nature and quantity of cargo to be carried therein;(iv)regulating the speed at which vessels shall be moved, the passing of vessels, the lights to be exhibited by vessels moving or at anchor, the working of looks, the mooring of vessels, and the use of landing places, wharves, piers, jetties, docks, basins, lie-byes, sidings, sheds or warehouses;(v)the disposal of vessels or other things confiscated or seized under this Act;(vi)for the convenience of passengers; and(vii)generally for the purpose of this Act.

17. Penalty for breach of rule.

- Any person who breaks any rule made under this Act shall be punishable on conviction by a Criminal Court with fine not exceeding fifty rupees in case of all single offence and, in case of a continuing offence, not exceeding ten rupees for every day during which such offence continues. If the offence is such as to endanger human life, the punishment may extend to imprisonment of either description for one year or to fine of five hundred rupees, or both.

18. Penalty for navigating a canal or establishing or working a ferry in contravention of section 5, 7-A or 9.

- Any person navigating a canal or establishing or working a ferry in contravention of section 5, 7-A or 9 of this Act shall be liable on conviction before a Criminal Court to fine not exceeding five hundred rupees.

19. Penalty for evasion of toll or fee and for unauthorized levy of toll, etc.

- Any person who refuses or evades payment of any toll or fee payable under this Act, or without due authority levies any toll or fee under colour of this Act, or, being empowered to collect tolls or fees under this Act, collects or receives any sum in excess of the lawful due, shall on conviction by a

Criminal Court be punishable with imprisonment of either description not exceeding one month, or with fine not exceeding one hundred rupees, or with both.

20. Power of court to order confiscation.

- On conviction had of any offence under this Act, the court may order that any vessel or other thing used in the commission of such offence shall be confiscated.

21. [[Section 21 was added by Tamil Nadu Act VIII of 1914.]

The [State Government] may delegate all or any of [their] [Substituted for 'his' by the Adaptation Order of 1937.] powers under sections 5,10,11,12,13 and 15 to any officer not below the rank of District Collector or Superintending Engineer.]