

# The Bengal Embankment Act, 1882

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### Act 2 of 1882

- Published on 1 January 1882
- Commenced on 1 January 1882
- [This is the version of this document from 1 January 1882.]
- [Note: The original publication document is not available and this content could not be verified.]

The Bengal Embankment Act, 1882 Act No. 2 of 1882 Published vide Bengal Act No. 2/21.6.1882. An Act to amend the law relating to embankments and water-courses Preamble - Whereas it is expedient to make better provision for the construction, maintenance and management of embankments and water-course in the territories subject to the Lieutenant-Governor of Bengal, it is enacted as follows : Part-I Preliminary

#### 1. Short title.

- This Act may be called the Bengal Embankment Act, 1882. Local extent - It extends to the whole of the territories subject to the Lieutenant Governor of Bengal, except the Sundarbans, as defined under the provisions of Clause 2, Section 13, Regulation III of 1828 and the Province of Orissa, save as otherwise expressly provided in Part IX.

#### 2. and 3.

[Not in force in Orissa]

#### 4. Public embankments, etc., to vest in the Crown.

- Every public embankment and every public water-course, and all land, earth, pathways, gates, bermes and hedges belonging to, or forming part of, or standing on, any such embankment or water-course and every embanked tow-path maintained by the Provincial Government, shall vest in the Crown for the purposes of the Province. The embankments mentioned in Schedule 'D' annexed to Bengal Act VI of 1878 and every embankment and water-course which may be included in such Schedule under Section 43 of this Act, and every embanked tow-path as aforesaid, shall be held on behalf (of the Provincial Government); and all other public embankments and watercourses shall be held by the Provincial Government on behalf of the persons interested in the lands to be protected or benefited by such embankments or water-courses, subject to the provisions of Section 87; and all

moneys received on account of such lands shall be credited to the cost of the construction and maintenance of such embankments and water-courses respectively.

## **5. Survey of lands hitherto used for obtaining earth for repairs.**

- All plots or parcels of land which, before the commencement of this Act, have been used for the purpose of obtaining earth or other materials for the repair of any public embankment, water-course or embanked tow-path as aforesaid, or which by agreement have been substituted for such lands, shall be deemed to be at the disposal of the Provincial Government for such purpose, without payment of compensation for the use or removal of such earth or other materials. The Collector may cause all such plots or parcels to be ascertained, surveyed and demarcated.

## **6. Notification.**

- The Provincial Government may, from time to time, by a notification in the Official Gazette, declare the limits of any tract within which the provisions of Clause (b), Section 76, shall take effect; and the said provisions shall take effect one month after the publication of such notification. As soon as possible after the said publication, the Collector shall cause a translation of the notification in the vernacular to be published in the manner prescribed in Section 80.

## **7. to 24.**

[Not in force in Orissa]. Part-III Procedure in cases of imminent danger to life or property

## **25. Proceedings in emergencies.**

- Whenever the Collector shall be of opinion that the delay in the execution of any work occasioned by proceedings commenced by a general notice under the seventh and following sections of this Act would be attended with grave and imminent danger to life or property, he may forthwith cause the execution of such work to be begun in anticipation of the completion of such proceedings: Provided that he shall without delay cause to be prepared the estimates, specifications and plans of the proposed works, together with a copy of the map as provided in Section 7, and shall cause general notice to be given that the work mentioned therein has already been commenced; and thereupon such proceedings and inquiries shall be had as in and by Part-II of this Act are directed.

## **26. Restoration of embankments, etc.**

- Whenever it may have been determined in the final order to be passed on any such inquiry that anything done by the Collector or by the Engineer under the last preceding section was unnecessary, any person who shall have sustained damage by the execution of such works shall receive compensation from the Provincial Government to be assessed according to the provisions contained in Part-V of this Act; and, on receipt of any application to that effect by the Collector from any such person affected, the land or the embankments or drainage shall, so far as any alteration thereof shall

appear to have been unnecessary, be, at the expense of the Provincial Government, restored as nearly as possible to the State in which they were when the Collector commenced to act under the provisions of this Part.

## **27. to 33.**

[Not In force in Orissa].

## **34. Power to take earth from lands.**

- Whenever it is deemed requisite to repair any embankment or water-course, or embanked towpath maintained by Provincial Government, it shall be lawful for the Engineer, or any person authorized in that behalf, to enter in and upon the lands mentioned in Section 5, and take possession of, appropriate and remove any earth or other material therefrom, and use the same for the purposes of such repairs.

## **35. to 75.**

[Not in force in Orissa].

## **76. Penalty for unauthorized interference with embankments or drainage.**

(a)Every person who, in any of the territories to which this Act extends, without the previous permission of the Collector, shall erect or cause or wilfully permit to be erected, any new embankment, or shall add to any existing embankment, or shall obstruct or divert, or cause or wilfully permit to be obstructed or diverted, any water-course, if such act is likely to interfere with, counteract or impede any public embankment or any public watercourse;(b)Penalty for unauthorised interference with embankments or drainage in prohibited tract - Every person who, within the limits of the tract included in any prohibitory notification under Section 6, without the previous permission of the Collector, shall erect, or cause or wilfully permit to be erected, any new embankment, or shall add to any existing embankment, or shall obstruct or divert, or cause or wilfully permit to be obstructed or diverted, any watercourse; and(c)Penalty for abetment of such acts - Every person who shall abet any such act as is mentioned in Clauses (a) and (b), shall be liable, on conviction, to a fine not exceeding five hundred rupees, or in default of payment to imprisonment of either description for a period not exceeding six months.

## **77. to 91.**

[Not in force in Orissa]Part-IX Special provision for the Province of Orissa

## **92. Powers conferred on Superintendent of Embankments in Orissa.**

- The powers conferred on the Collector by Section 25 may, in the Province of Orissa, be exercised by the Superintendent of Embankments with the consent of the Collector previously obtained, and the references in the said section to other parts of this Act shall be deemed to be references to the corresponding portions respectively of Act XXXII of 1855 (an Act relating to Embankments). The consequences mentioned in Section 26 shall attach to everything done by the Superintendent of Embankments under the provisions of this section.

## **93. Power of Engineer to act in urgent cases.**

- In cases in which the Engineer in charge of any embankment may be of opinion that delay for the purpose of obtaining the orders of the Superintendent of Embankments and the Collector would be attended with grave and imminent danger to life or property, the Engineer may exercise the powers conferred on the said Superintendent with the consent of the Collector in pursuance of the last preceding section. The Engineer shall forthwith report to the said Superintendent any action taken by him under this section, and shall be guided by any instructions which he may receive from him in respect thereof.

## **94. Sections made applicable to Orissa.**

- Sections 4, 5, 6, 34 and 76 shall extend to the Province of Orissa, the words "Superintendent of Embankments" being substituted for the word "Collector" in Clauses (a) and (b) of Section 6.

**I**

[Not applicable to Orissa]

**II**

[Not applicable to Orissa]

**III**

[Not applicable to Orissa]