

Bengal Act 1 of 1885
(The Bengal Ferries Act 1885)
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(Part I – Public Ferries – Secs. 6 and 7)

“Notification” means a notification published in the ¹[Official Gazette].

“Private ferries” includes all ferries other than those declared to be public ferries, or established as such, under section 6 of this Act.

PART 1
Public Ferries

Power to declare, establish, define and discontinue public ferries.

6. It shall be lawful for the ²[Provincial Government] from time to time to ---

(a) declare what ferries shall be deemed public ferries, and the respective districts in which, for the purposes of this Act. they shall be deemed to be situate;

(b) take possession of a private ferry and declare it to be a public ferry;

(c) Establish new public ferries where, in ³(its) opinion, they are needed;

(d) define the limits of any public ferry;

(e) change the course of any public ferry; and

(f) discontinue any public ferry which ⁴(it) deems unnecessary.

Every such declaration, establishment, definition, change or discontinuance shall be made by notification:

Provided that, when any alteration in the course or in the limits of a public ferry is rendered necessary by changes in the river on which such ferry is established, such alteration may be made, by an order in writing, by the Magistrate of the district.

Control of public ferries vested in the Magistrate of the district

7. The control of all public ferries shall be vested in the Magistrate of the district, subject to the direction of the commissioner.

¹ These words were substituted for the words “ Calcutta Gazette” by paragraph 4(1) of the Government of India (Adaptation of India Laws) order, 1937.

² These words were substituted for the words “Lieutenant-Governor” by paragraph, 4(1) of the Government of India (Adaptation of Indian Laws) order, 1937

³ This word was substituted for the word “his” by paragraph 5(2) *ibid*.

⁴ This word was substituted for the word “he”, *ibid*.

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8. The immediate superintendence of every public ferry shall be vested in the Magistrate of the district in which such ferry is situated, or in such other officer as the ¹[Provincial Government] may, from time to time, either by name or by official designation, appoint.

Superintendence of public ferries.

And such Magistrate or officer shall, except when the tolls at such ferry are leased, make all necessary arrangements for the supply of boats for such ferry, and for the collection of the authorized tolls leviable thereat.

9. The tolls of any public ferry may, from time to time, be leased by public auction for such term as the Magistrate of the district in which such ferry is situated may with the approval of the commissioner, direct.

Ferry tolls may be leased by auction

The Magistrate of the district or the officer authorized by him to conduct such auction may for sufficient reason to be recorded in writing, refuse to accept the offer of the highest bidder, and may accept any other bid or may withdraw the tolls from auction.

The lessee of the tolls of every ferry which have been leased under this section shall execute a contract setting forth the conditions on which the tolls of such ferry are to be held, and shall give security for its due fulfillment.

Execution of contract by lessee.

10. When the tolls of a public ferry have been duly leased, the lessee and every servant of the lessee shall be deemed to be legally bound to conform to the rules made under this Act for the management and control of such ferry.

Lessee of the tolls of a public ferry and his servants bound to conform to rules.

11. On the requisition of the Magistrate of the district the person in charge of a public ferry situate in such district shall maintain at one or more places, in addition to the place at which the said public ferry is established, and within two miles there from, such number of subsidiary ferries as may seem to the Magistrate to be necessary for the public convenience: and all the provisions contained in this Act in regard to the management and control of public ferries shall be deemed applicable to any subsidiary ferry maintained under the requisition of the Magistrate.

Provision for the establishment of subsidiary ferry.

12. All arrears due by the lessee of the tolls of a public ferry on account of his lease:

Recovery of arrears from lessee.

any pecuniary forfeiture for breach of contract inserted in the deed of contract or conditions of sale by public auction; and

¹ See foot-note 2 on p. 202, ante.

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all sums due from the lessee on the surrender of his lease under section 14.

may be recovered from the lessee or his surety (if any) as a demand under ¹[the Bengal Public Demands Recovery the Act, 1913] recovery of public demands.

13. The lease of the tolls of any public ferry shall be liable to be cancelled at once by the Magistrate of the district in which such ferry is situated, if it shall appear to such Magistrate that the lessee has failed to make due provision for the convenience or safety of the public within fifteen days after being required to do so by a notice in writing from such Magistrate.

Power to
cancel lease

14. The lessee of the tolls of a public ferry may surrender his lease on the expiration of one month's notice in writing to the Magistrate of the district in which such ferry is situated of his intention to surrender such lease, and on payment of such reasonable compensation as the Magistrate may, with the approval of the commissioner, in each case direct.

Surrender of
lease

15. The Magistrate of the district, with the approval of the commissioner, may from time to time make rules consistent with this Act-

Power to make
rules in regard to
public ferries.

(a) For the management of all public ferries within such district, and for regulating the traffic at such ferries;

(b) for regulating the time and manner at and in which the terms in which, and the person by whom, the tolls of such ferries may be leased by auction;

(c) for compensating persons who have compounded for tolls payable for the use of any such ferry when such ferry has been discontinued before the expiration of the period compounded for; and

(d) generally, to carry out the purposes of this act;

And, when the tolls of a ferry have been leased under section 9, such Magistrate may, from time to time, with such approval as aforesaid, make additional rules consistent with this act,--

(e) for collecting the rents payable for the tolls of such ferries;

¹ These words and figures were substituted for the words and figures "Bengal Act VII of 1880" by the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

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Provided also that nothing hereinbefore contained shall prevent persons keeping boats to ply between two places, one of which is without, and one within, the said limits, when the distance between such two places is not less than three miles, or shall apply to boats which the Magistrate of the district expressly exempts from the operation of this section.

Claims for compensation and what amount to be awarded

17. Claims for compensation for any loss sustained by any person in consequence of a private ferry being taken possession of, or a new public ferry, or subsidiary ferry, being established under section 6 or subsidiary be inquired into by the Magistrate of the district in which such ferry is situated, who shall, with the approval of the Commissioner, award compensation to any person who may appear justly entitled thereto.

Such compensation shall be calculated upon an estimate of the annual net profit actually realized by such person from such ferry on an average of the five year next preceding such declaration, and shall in no case exceed the amount of fifteen times such net annual profit.

Tolls.

18. Tolls, according to such rates as may, from time to time, be fixed by the Magistrate of the district with the approval of the commissioner, shall be levied on all persons, animals, vehicles and other things¹ crossing any river by a public ferry and not employed or transmitted on the public service:

Provided that the ²[Provincial Government] may from time to time, declare that any persons, animals, vehicles or other things shall be exempt from payment of such tolls.

Where the tolls of a ferry have been leased under section 9, any such declaration, if made after the date of the auction, shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be fixed by the Magistrate of the district under this section.

Table of tolls

19. The lessee or other person authorised to collect the tolls of any public ferry shall affix a table of such tolls, legibly written or printed in the vernacular language, and also, if the Commissioner of directs, in English, in some conspicuous place near the ferry;

List of tolls

and shall be bound to produce, on demand, a list of the tolls signed by the Magistrate of the district or such other officer as the appoints in this behalf.

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¹ So much of section 18 as provides for the exemption from payment of tolls of any persons, animals, vehicles or other things which are exempted by section 3 of the Indian Tolls (army) act, 1901(II of 1901), is repealed by section 8 of the Act.

² See foot-note 2 on page 202, ante.

20. (Tolls, rents, compensation and fines how to be appropriated.) Omitted by sch. IV of the Government of India (Adaptation of Indian Laws) order, 1937.

Compounding for tolls.

21. It shall be lawful for the Magistrate of the district in which a public ferry is situated, with the approval of the Commissioner, from time to time to fix rates at which any person may compound for the tolls payable for the use of such ferry.

PART II Private Ferries.

Power to make rules in regard to private ferries.

22. The Commissioner may from time to time make rules consistent with this Act. for the maintenance of order, and for the safety of passengers and property, at private ferries situated in his division.

Rules made under this section shall be subject to the control of the ¹[Provincial Government] and shall be published in the ²[Official Gazette) in such manner as the [Provincial Government] directs, and shall thereupon have the force of law.

PART II Penalties and Criminal Procedure.

Penalty for breach of provisions as to table of tolls, list of tolls and return of traffic.

23. Every lessee or other person authorized to collect the tolls of a public ferry, who neglects to affix and keep in good order and repair the table of tolls mentioned in section 19.
or who willfully removes, alters or defaces such table, or allows it to become illegible,
or who fails to produce on demand the list of the tolls mentioned in section 19.
and every lessee who neglects to furnish any return required under section 15.
shall be punished with fine which may extend to fifty rupees.

¹ See foot-note 2 on page 202, ante.

² See foot-note 1 on page 202, ante.