

The Works of Defence Act, 1903

(ACT NO. VII OF 1903)

¹♣An Act to provide for imposing restrictions upon the use and enjoyment of land in the vicinity of works of defence in order that such land may be kept free from buildings and other obstructions, and for determining the amount of compensation to be made on account of such imposition.

WHEREAS it is expedient to provide for imposing restrictions upon the use and enjoyment of land in the vicinity of works of defence in order that such land may be kept free from buildings and other obstructions, and for determining the amount of compensation to be made on account of such imposition; It is hereby enacted as follows:-

PART I

PRELIMINARY

Short title and extent.

- 1.(1) This Act may be called the Works of Defence Act, 1903; and
- (2) It extends to the whole of Bangladesh.

Definitions

2. In this Act, unless there is something repugnant in the subject or context,-
 - (a) the expression “land” includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth:
 - (b) the expression “person interested” includes all persons claiming an interest in compensation to be made on account of the imposition of restrictions upon the use and enjoyment of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land:
 - (c) the expression “Division” means one of the Divisions or Groups into which Bangladesh is, for military, naval or air force purposes for the time being divided; it includes a Brigade area, a sub-Area which does not form

part of any Division, a naval station, port, dockyard, or establishment; or an air force Headquarters which does not form part of any air force Group, and any area which the Government may, by notification in the Official Gazette, declare to be a Division for all or any of the purposes of this Act:

(d) the expression "General Officer Commanding the Division" means with reference to a work pertaining to the Army, the army officer for the time being in command of the forces in a Division, with reference to a work pertaining to the Navy, the naval officer for the time being in command of the forces in a Division and with reference to a work pertaining to the Air Force, the air force officer for the time being in command of the force in a Division:

(e) the expression "Commanding Officer" means the officer for the time being in command of a work of defence:

(f) the expression "Collector" includes any officer specially appointed by the Government to perform the functions of a Collector under this Act:

(g) the expression "Court" means a principal Civil Court of original jurisdiction, unless the 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:

(h) "maintain", with its grammatical variations and cognate expressions, does not, when used in relation to a house or other construction, include the doing of any act necessary for keeping such house or construction, until the making of the award referred to in section 12 or until the exercise, prior to the making of the award, of the powers of demolition conferred, in case of emergency, by section 6, sub-sections (1) and (3), in the state in which it was at the time of the publication of the notice referred to in section 3, sub-section(2):

(i) the following persons shall be deemed "entitled to act" as and to the extent hereinafter provided, that is to say,-

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any case, and that to the same

extent as the persons beneficially interested could have acted if free from disability:

a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and, whether of full age or not, to the same extent as if she were unmarried and of full age: and

the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted:

Provided that,-

(i) no person shall be deemed "entitled to act" whose interest in the subject-matter is shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act;

(ii) in every case the person interested may appear by a next friend or, in default of his appearance by a next friend, the Collector or Court, as the case may be shall appoint a guardian for the case to act on his behalf in the conduct thereof;

(iii) the provisions of ²[Order XXXII of the First

Schedule to] the [Code of Civil Procedure, 1908,] shall, mutatis mutandis, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act; and

(iv) no person "entitled to act" shall be competent to receive the compensation-money payable to the person for whom he is entitled to act, unless he would have been competent to alienate the land upon the use and enjoyment of which restrictions are to be imposed and receive and give a good discharge for the purchase-money on a voluntary sale;

(j) the expression "work" or "work of defence" means any defence establishment and include a naval dockyard, an airfield, a runway, an

emergency landing ground or any area declared by the Government to be a "work" or "work of defence";

(k) the expression "Clearance Area" means-

(i) an area 250 yards wide measured on either side and at right angle to the center line of a runway along its full length;

(ii) an area 75 yards wide measured on either side and at right angle to the center line of a taxi way along its full length;

(iii) an area 42 yards wide all round an apron or hard standing measured from the outer edge;

(iv) an area immediately adjacent to both ends of a runway 300 yards long measured along and symmetrical to extended center line of a runway and 250 yards wide either side of the center line; and

(v) an area 500 yards wide flaring up to 707 yards beyond that mentioned in the preceding clause at each end of runway extending on the ground for a distance of 1,000 yards along and symmetrical about the extended center line of a runway;

(l) "Funnel Area" means air space clearance at each end of a runway beginning at the end of the area mentioned in clause (k) (v) at the elevation of the end of runway and rising on a slope of 1 in 50 (for every 50 feet horizontal one foot vertical, known as glide angle) for a horizontal distance of 3,033 yards measured along and symmetrical about the extended center line of runway, the width of the Funnel Area at the end of the distance mentioned in clause (k) (v) being 707 yards flaring up to 1,333 yards at the end;

(m) "Area of Restricted Height" means air space clearance at each end of a runway beginning at the end of Funnel Area above an elevation of 60 yards measured above the elevation of the end of the runway and with a width of 1,333 yards and a length of 5,000 yards measured along and symmetrical about the extended center line of the runway;

(n) "Inner Horizontal Surface" means an air space clearance above an elevation of 50 yards over and above the established airfield elevation, the

extent of this surface being limited to an area included within a radius of 4,333 yards measured from the geometrical center of the runway known as reference point;

(o) "Inner Conical Surface" means air space clearance extended outward and upward from the periphery of the Inner Horizontal Surface for a distance of 2,333 yards, the slope of Conical Surface being 20 horizontal to one vertical protruding above;

(p) "Outer Horizontal Surface" means air space clearance above an elevation of 166 yards over and above the established airfield elevation, the extent of this surface being limited to an area included between the outer periphery of Inner Conical Surface and a circle having a radius of 16,667 yards measured from the reference point;

(q) "Transition Surface" means air space clearance joining two adjacent surfaces with a slope of 7 horizontal to one vertical measured outward and upward and all along the sides of runway Clearance Area, Funnel Area and Area of Restricted Height, the slope being measured at right angle to the runway axis except, at the ends of the Area of Restricted Height where it will be measured parallel to it.

PART II

IMPOSITION OF RESTRICTIONS

Declaration and notice that restrictions will be imposed.

3.(1) Whenever it appears to the Government that it is necessary to impose restrictions upon the use and enjoyment of land in the vicinity of any work of defence or of any site intended to be used or to be acquired for any such work, in order that such land may be kept free from buildings and other obstructions, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorized to certify its orders.

(2) The said declaration shall be published in the official Gazette and shall state the district or other territorial division in which the land is situate and the place where a sketch plan of the land, which shall be prepared on a scale not smaller than six inches to the mile and shall distinguish the