

The Development Act, 1935

(ACT NO. XVI OF 1935)

♣An Act to provide for the development of lands in Bangladesh and to impose a levy in respect of increased profit resulting from improvement works constructed by the Government.

WHEREAS it is expedient to provide for the development of lands in Bangladesh and for that purpose to impose a levy in respect of increased profits resulting from improvement works constructed by the Government and to provide further powers in regards to works of improvement;

[* * *]It is hereby enacted as follows:-

**Short title,
extent and
commencement**

1. (1) This Act may be called the ¹[* * *] Development Act, 1935.

(2) It extends to the whole of Bangladesh.

(3) It shall come into force on such date as the Government may, by notification, appoint.

Definitions

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

(1) "agricultural lands" include lands used for the growing of vegetables and the like but does not include fruit gardens, orchards or homestead lands;

(2) "canal" means a canal as defined in clause (1) of section 3 of the Irrigation Act, 1876.

(3) "Collector" includes any officer specially appointed by the Government to perform all or any of the functions of a Collector under this Act;

(4) "dead or decayed river" includes any river into which, or along any part of which, water has ceased to flow as freely as it would have flowed if it had not been diverted or obstructed whether owing to natural causes or as a result of interference by man, and includes also any depression which at

one time formed part of a riverbed but through which there is no longer any perennial flow of water;

(5) "improvement work" means any work of improvement constructed before ²[the 26th day of March, 1971,] by the Government or constructed or proposed to be constructed after that date by the Government which the Government has, by notification, declared to be an improvement work for the purposes of this Act;

(6) "notification" means a notification published in the official Gazette.

(7) "notified area" means any area in respect of which the Government has, by a notification issued under sub-section (1) of section 5, declared its intention to impose an improvement levy, and includes any part of such area;

(8) "period of objection" means a period mentioned in a notification under this Act within which objections or suggestions will be received;

(9) "prescribed" means prescribed by rules made under this Act; and

(10) "rent" and "tenant" have the same meanings as in the

³[* * *] State Acquisition and Tenancy Act, 1950.

Preliminary notification of intention to impose improvement levy

3. Whenever, in the opinion of the Government, any improvement work has increased or is likely to increase the profits from the produce from any agricultural land, or to increase the outturn of such produce, within any area, the Government may, by notification, declare its intention to impose an improvement levy within that area.

Publication of particulars

4. A notification under section 3 shall state the following particulars-

(a) as full a description of the improvement work as, in the opinion of the Government may be practicable;

(b) the object for which such work has been, or is proposed to be, constructed; and

(c) the boundaries of the area within which the Government intends to impose the improvement levy.

**Abandonment
of intention
or
declaration
of intention
to impose
improvement
levy**

5. (1) After the expiry of a period for objection to be mentioned in a notification under section 3 the Government shall consider the objections and suggestions, if any, receive by it and thereafter shall, by notification, declare its intention either wholly to refrain from imposing the improvement levy or to impose the same in the area concerned or in a specified part thereof, whereupon the area in respect of which the Government has by such a notification declared its intention to impose the improvement levy shall be deemed for the purposes of this Act, to be a notified area.

(2) The Government may, so far as may be in the manner hereinbefore provided, from time to time include in or exclude from any notified area any area which, in the opinion of the Government has benefited or has not benefited, as the case may be, from the improvement work.

[Omitted]

6. [Omitted by the First Schedule of the East Pakistan Repealing and Amending Ordinance, 1962 (Ordinance No. XIII of 1962).]

**Imposition
of
Improvement
levy**

7. When the Government is satisfied that a notified area has benefited or is likely to benefit from an improvement work, if may, by notification, subject to the provisions of section 6, impose improvement levy in that area from such date as may be specified in the notification.

**Estimate of
increased
outturn of
produce
from
agricultural
land**

8. (1) From time to time an officer appointed by the Government shall, in accordance with rules made under this Act, and after hearing any objections in the prescribed manner, prepare in respect of land throughout a notified area an estimate of the average increase in the outturn of the produce from agricultural land of any class which, in his opinion, has been or is likely to be made possible by any improvement work ⁴[* * *]:

⁵[* * *]

(2) The ⁶[Government] shall, by notification, publish such estimate and, after a period for objection to be specified in such notification, shall consider the objections and suggestions, if any, received by it ⁷[* * *]. Thereafter the Government may reject the estimate or may, by notification,

accept it with or without modification, whereupon the accuracy of any estimate so accepted shall not be questioned in any court.

(3) Where an estimate has been accepted under sub-section (2) in respect of a notified area before the imposition of the improvement levy, such estimate shall, as soon as may be practicable after the expiry of two years from the date of the imposition of the levy, be revised in the manner provided in sub-sections (1) and (2) for the preparation, publication, and acceptance of an estimate.

Fixing value of increased outturn

9. The Government shall, by notification, fix annually or for such period not exceeding five years as may be specified in the notification the price or prices on the basis of which the value of the average increase in the outturn, as estimated under section 8 from land of any class in a notified area is to be calculated.

Maximum limit and incidence of improvement levy

10.(1) Notwithstanding anything contained in any other Act the improvement levy shall be imposed in respect of agricultural lands within a notified area at such rate or rates as the Government may, by notification, from time to time declare, and different rates may be so declared for classes of land of different descriptions or having different advantages:

Provided that any rate so fixed shall not exceed one half of the estimated net increase, resulting from the improvement work, in the profit or one half of the net value of the estimated increase in outturn.

Such improvement levy shall be payable by the occupiers of such lands within the notified area.

Explanation.-In this sub-section the expression "estimated increase in outturn" means the average increase in the outturn of agricultural produce as estimated under section 8.

(2) The rate or rates of the improvement levy shall be fixed under sub-section (1) for one year or for such period not exceeding five years as may be specified in the notification issued under that sub-section.

(3) For the purposes of sub-section (1) the net increase in the profits and the net value of the estimated increase in outturn shall be estimated, in

accordance with rules made under this Act on the price or prices fixed under section 9.

(4) The Government may, by rules made under this Act, declare what persons or classes of persons shall be deemed, for the purposes of sub-section (1), to be occupiers of land but no person shall, by such rules, be declared to be an occupier of land unless, otherwise than as a hired labourer, he cultivates such land or (if it is not cultivated) unless he is in direct possession of such land.

(5) Notwithstanding anything contained in sub-section (4), where a person under the system generally knows as "adhi", "barga" or "bhag", cultivates the land of another person on condition of delivering a share of the produce to that person or receiving a share thereof from him, the person whose land is cultivated and the person who cultivates it shall each be deemed, for the purposes of sub-section (1), to be an occupier of such land, and each shall be liable to pay a prescribed proportion of the improvement levy imposed in respect of such land, and any contract to the contrary shall, to that extent, be void.

**Additional
improvement
levy in
certain
cases**

11. (1) Notwithstanding anything contained in section 10, if in any notified area, any unculturable waste, swamp, or sand has, as a result of an improvement work, become culturable land, and such land is thereafter settled with any tenant, the person who settles the land shall be liable to pay, in one sum, an improvement levy of such amount as may be fixed by the Collector, in accordance with rules made under this Act, after considering any objection that may be made in the prescribed manner by such person.

(2) The amount fixed under sub-section (1) shall not exceed one -half of the difference between-

(a) the amount which the Collector estimates to be the usual salami for a like area of land, in the vicinity, similar in its description and its advantages to the land as it is at the time of the settlement, and