

# The Embankment and Drainage Act, 1952 (East Bengal Act)

( ACT NO. I OF 1953 )

**An Act to consolidate the laws relating to embankment and drainage and to make better provision for the construction, maintenance, management, removal and control of embankments and water courses for the better drainage of lands and for their protection from floods, erosion or other damage by water. <sup>1</sup>♣ ♠**

WHEREAS it is expedient to consolidate the laws relating to embankment and drainage and to make better provision for the construction, maintenance, management, removal and control of embankments and water courses for the better drainage and improvement of lands in the territories comprising the province of East Pakistan and for the protection of such lands from floods, erosion or other damage by water, it is enacted as follows:-

## PART I

### PRELIMINARY

- Short title, extent and commencement**
1. (1) This Act may be called the <sup>2</sup>[\* \* \*] Embankment and Drainage Act, 1952.
- (2) It extends to the whole of Bangladesh.
- (3) It shall come into force on such date as the Government may, by notification in the official Gazette, appoint.
- Repeal of former Acts**
2. The enactments mentioned in the Schedule C to this Act shall be repealed to the extent mentioned in column 4 of that Schedule.
- Definitions**
3. In this Act, unless there is anything repugnant in the subject or context,-
- (a) "Authority" means East Pakistan Water and Power Development Authority established under section 3 of the East Pakistan Water and Power Development Authority Ordinance, 1958;

(b) "Deputy Commissioner" means the Chief Officer in-charge of revenue administration of a district and such other person as may be specially appointed by the Government to perform the functions of a Deputy Commissioner under this Act;

(c) "embankment" includes every bank, dam, wall and dyke made or used for excluding water from or for retaining water upon any land; every sluice, spur, groyne, training wall, berm or other work annexed to, or portion of, any such embankment, every ban, dam, dyke, wall, groyne or spur made or executed for the protection of any such embankment or of any land from erosion or overflow by or of rivers, tides, waves or waters; and also all buildings, intended for purposes of inspection and supervision, but does not include any ail or ridge surrounding or dividing a field or any public or private road;

(d) "Engineer" means the Engineer in-charge of a Division under Water Wing of the Authority or any Engineer specially appointed to perform the functions of an Engineer under this Act;

(e) "land" includes interests in land and benefits arising out of land, and things attached to the earth or permanently fastened to anything attached to the earth;

(f) "owner", used in relation to a land, means a person who has a right, title or interest in that land, and is either in actual possession of it or has an immediate right to actual possession thereof, and include his trustee, heirs, assigns, transferees and legal representatives, but does not include a person who, under the system generally known as adhi, barga or bhag, cultivates such land:

Provided that where any person is, under the terms of any contract between him and the Government or the Authority, liable to do any act or execute any work specified in Part II of this Act, for the benefit of any area, such person shall be deemed to be the owner in relation to any land in such area and shall be deemed to be in possession of such land;

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

(h) “public embankment” means an embankment vested in or maintained by the Government or the Authority;

(i) “public water-course” means a water-course vested in or under the charge of the Government or the Authority; and

(j) “water-course” includes a line of drainage, weir, culvert, pipe or other channel, whether natural or artificial, for the passage of water.

**Vesting of public embankments, water-course, etc., in Government or Authority**

4. (1) Every embankment, water-course and embanked tow-path maintained by the Government or the Authority, and all land, earth, pathways, gates, berms and hedges belonging to or forming part of, or standing on, any such embankment or water-course shall vest in the Government or the Authority, as the case may be.

(2) The embankments mentioned in Schedule A to this Act and every embankment and water course which may be restored to or included in such Schedule under section 37 or section 38 of this Act, and every embanked tow path as aforesaid, shall be held on behalf of the Government or the Authority; and all other public embankments and water courses shall, subject to the provision of section 65, be held by the Government or the Authority on behalf of the persons interested in the lands to be protected or benefited by such embankments or water courses, 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.

**Lands used for obtaining earth, etc., to be at the disposal of Government or Authority and survey thereof**

5. Except as otherwise provided in this Act, 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 Government or the Authority for such purpose, without payment of compensation for the use or removal of such earth or

other materials. The Engineer may cause all such plots or parcels of land to be ascertained, surveyed and demarcated.

## **Notification**

6. The Government may, from time to time, by notification in the official Gazette, declare the limits of any tract within which the provisions of clause (b) of sub-section (1) of section 56 shall take effect. As soon as possible after the said notification, the Engineer shall cause a translation of the notification in the vernacular to be published in the prescribed manner; and the said provisions shall take effect one month after the publication of such translation.

## **PART II**

### **POWERS OF ENGINEER**

## **Powers of the Engineer**

7. Subject to the provisions of Part III, whenever it shall appear to the Engineer that any of the following acts should be done or works (including any work of repair) executed, that is to say:

(1) that any embankment which connects public embankments, or forms by junction with them part of a line of embankments, or that any embankment or water course which is necessary for the protection or drainage of the neighbouring areas, should be taken charge of and maintained by the Government or the Authority;

(2) that any embankment which connects public embankments or forms by junction with them part of a line of embankments or is necessary for the protection of the neighbouring areas, should be repaired;

(3) that any embankment, or any obstruction of any kind, which endangers the stability of a public embankment or the safety of any town or village, or which is likely to cause loss of property by interfering with any water course or with the general drainage or the flood drainage of any tract of land, should be removed or altered;

(4) that the line of any public embankment should be changed or lengthened, or that any public embankment should be renewed, or that a new embankment should be constructed in place of any public

embankment, or that any embankment should be constructed for the protection of any lands or for the improvement of any water-course, or that a sluice in any public embankment should be made;

(5) that any sluice or water course should be made, or that any water course should be altered for the improvement of the public health, or for the protection of any village or cultivable land;

(6) that any road which interferes with the drainage of any tract of land should be altered, or that any water course under or through such road should be constructed;

he shall prepare or cause to be prepared estimates of the cost of such works, including such proportion of the establishment charges as may be chargeable to the works in accordance with the prescribed rules or as may be specially directed by the Government or the Authority, together with such plans and specifications of the same as may be required. He shall also prepare or cause to be prepared from the survey map of the district, a map showing the boundaries of the lands likely to be benefited or affected by the said acts and works, and he shall issue a general notice of his intention to execute or cause to be executed such works.

**General notice and filing of objection**

8. Such general notice shall be in the prescribed form stating, as far as possible, the prescribed particulars of all lands which are likely to be affected by the proposed work and to be chargeable in respect of the expenses of executing the same and shall be published in the prescribed manner. A copy of the said estimates, specifications and plans together with a copy of the maps aforesaid, shall be deposited in the office of the Engineer and shall be open to the inspection of any person interested who shall be allowed to take copies thereof and to file objections, if any, against the execution of the proposed work, within thirty days from the date of the publication of such notice.

**Hearing of objection**

9. The Engineer shall, on the day appointed for the hearing, or on any subsequent day to which the hearing may be adjourned, hold an enquiry