

East Bengal Act I of 1948.

**THE EAST BENGAL AGRICULTURAL INCOME-TAX
(AMENDMENT) ACT, 1948.¹**

[7th April, 1948.]

An Act to vary the rates of the agricultural income-tax under section 3 of the Bengal Agricultural Income-tax Act, 1944, and to extend the said Act to the district of Sylhet.

Ben. Act
IV of
1944. WHEREAS it is expedient to make an addition to the revenues of ²[East Pakistan] and for that purpose to increase the rates of the agricultural income-tax under the Bengal Agricultural Income-tax Act, 1944, and to extend the said Act to the district of Sylhet;

It is hereby enacted as follows:—

1. (1) This Act may be called the East Bengal Agricultural Income-tax (Amendment) Act, 1948. Short title,
extent, and
commence-
ment.

(2) It extends to the whole of ²[East Pakistan].

(3) It shall come into force on the 1st April, 1948.

Ben. Act
IV of
1944. 2. (1) The Bengal Agricultural Income-tax Act, 1944, as amended from time to time, shall apply to the district of Sylhet.

Assam
Act IX
of 1939. (2) The Assam Agricultural Income-tax Act, 1939 is hereby repealed.

3. [Repealed by East Pakistan Repealing and Amending Ordinance, 1960 (E. P. Ord. XXVIII of 1960)].

¹For Statement of Objects and Reasons, see *Dacca Gazette* Extraordinary, dated the 3rd March, 1948, Part IVA, page 3; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 15th and 22nd March, 1948.

The Act was extended to the Chittagong Hill-tracts and those areas of the Mymensingh district which were known as "partially excluded areas" immediately before the coming into force of the constitution which was abrogated by the Presidential Proclamation of the 7th day of October, 1958, vide notification No. 426F.T., dated the 7th April, 1948 published in *Dacca Gazette*, Extraordinary, dated the 7th April, 1948, Part I, Page 1.

²The words within square brackets were substituted for the words "East Bengal" by E. P. Ordinance XXVIII of 1960, First Schedule.



CORRIGENDA

- 1—Sub-section (2) of section 2, line 1, *insert a comma after “1939”*.
- 11—Second proviso to clause (e) of section 7, line 4, *insert a comma after “Act”*.
- 16—Section 8B, line 3, *insert “time before” in blank space, after “any” and in line 4, read “acquisition” for “acquisoitin”*.
- 27—Sub-section (5) of section 14, line 1, *read “respect” for “respctet”*.
- 31—In preamble, line 4, *read “as” for “so”*.
- 52—Clause (a) of sub-section (2) of section 12, line 6, *insert a comma after “licence”*.
- 62—Clause (5) of section 2, line 4, *insert a comma after “be”*.
- 78—In line 6, *insert a comma after “shall”*.
- 92—Proviso to section 60, line 3, *read “landlord” for “andlord”*.
- 04—Clause (g), line 1, *insert a comma after “in”*.
- 27—Section 9, line 4, *read “Provincial” for Provincial”*.
- 67—Section 2, line 2, *read “context” for contex”*.
- 3—Sub-section (2) of section 12, line 1, *insert a comma after “received”*.
- 4—Section 26, in the marginal note, *read “land” after “rent free”*.
- Section 127, line 1, *read “as” after “soon”*.
- Sub-clause (m), line 1, *read “petroleum” for “pertroleum”*.
- Line 3, *omit the comma after “Act”*.
- Clause (b) of section 9, *insert a comma after “year”*.
- Section 12, line 5, *read “or establishment” before “employing”*.
- Clause (3) of section 2, line 1, *insert a comma after “care”*.
- Marginal note of section 3, *read “thereto” for “hereto”*.
- n sub-section (1) of section 3, line 2, *read “law” for “aw”*.
- ub-section (1) of section 4, line 6, *read “believe” for “belive”*.
- ection 27, line 7, *read “lands” for “land”*.
- n line 11, *read “embankments” for “embankment”*.
- n line 4, *read “Talaimari” for “Talaimuri”*.
- ub-section (3) of section 10, line 1, *read “in” for “n”*.
- tem 73, *read “Preparation” for “Prepartion”*.
- Sub-section (1) of section 9, line 2, *read “section” for “section”*

- Page 394—Section 9, line 6, *read* “Municipality” for “Municipality”.
- „ 400—Section 23, line 10, *read* “number” for “member”.
- „ 405—Section 36, line 3, *read* “dispose” for “ispose”.
- „ 423—Section 72, line 7, *substitute* a colon for semi-colon *after* ^{18c} “after”.
- „ 426—Section 75, line 3, *insert* a comma *before* “he”.
- „ 427—Section 78, line 1, *read* “enter” for “ente”.
- „ 431—Section 89, line 2, *read* “he” for “e”.
- „ 440—Section 101, line 2, *insert* a comma *after* “of”.
- „ 440—Section 101, line 4, *read* “lease” for “ease”.
- „ 451—Section 138, line 2, *read* “sections” for “section”.
- „ 452—Clause (e), line 2, *read* “or” for “of” occurring second time.
- „ 457—Clause (b) of section 161, line 2, *insert* a comma *after* “otherwise”.
- „ 458—Sub-clause (b) of section 163, line 2, *read* “persons” for “person”.
- „ 463—Section 181, line 13, *read* “is” *after* “it”.
- „ 470—Article 7, line 2, *insert* a comma *after* “inserted”.
- „ 483—Section 3, line 2, *insert* a closing third bracket *after* “Pakistan”.
- „ 489—Section 1, line 1, *read* “control” for “ontrol”.
- „ 494—Clause (xiii) of sub-section (2), line 1, *insert* “a” *after* “ma”.
- „ 520—Section 10, line 3, *read* “facts” for “fact”.
- „ 553—In line 2, *read* “restaurants” for “restaurant”.
- „ 571—Section 11, line 1, *read* “meeting” for “metting”.
- „ 573—Section 30, line 2, *delete* the comma *after* “Gazette”.
- „ 588—Clause (c) of item VI, line 2, *read* “bottle corks” for “bottl”.
- „ 596—Sub-section (3) of section 4, line 5, *read* “subscriptions” for “s
tion”.
- „ 597—Clause (b) of section 7, line 5, *read* “the” for “th”.
- „ 597—Section 7, line 10, *read* “total” for “tota”.
- „ 597—Sub-section (2) of section 8, line 3, *read* “elec ed” for “lecte”.
- „ 659—Section 5, line 6, *insert* a comma *after* “decision”.
- „ 674—Sub-clause (ii) of section 76, *read* “(7b)” for “7(b)”.
- „ 690—Proviso to clause (ii) of sub-section (5) of section 9, *li*
“the” *after* “have”.
- „ 692—In the marginal note of section 16, *read* “claiming” for “cl”.
- „ 701—Section 5, line 1, *read* “Amusements” for “Amusments”.
- „ 707—Section 5, line 2, *read* “records-of-rights” for “record-of”.

- 757—Last para of the preamble, line 1, *read* “Pakistan” for “Pakisan”.
- 757—Clause (c) of section 2, line 3, *read* “land” for “and”.
- 767—Para 4 of the preamble, in line 2, *omit* “the” occurring second.
- 802—Section 24, line 9, *read* “audit” for “ait”.
- 807—Long title, *read* “1958” for “195”.
- 824—Sub-section (4), line 6, *read* “area” for “in area”.
- 885—Section 30, line 1, *read* “warehouse” for “warehause”.
- 886—Clause (b) of section 37, line 2, *insert* a comma *after* “down”.
- 934—Section 34, line 1, *read* “Forest” for “Foest”.
- 937—Section 46, line 1, *read* “Forest Officer” for “Forest”.
- 938—Section 50, line 2, *read* “Ordinance” for “Odinance”.
- 984—Section 41, line 8, *read* “appertenant” for “appurtenant”.
- 997—Section 85, line 2, *read* “notification” for “otification”.

PREFACE

This Volume contains East Bengal and East Pakistan Acts, Regulations and Ordinances from 15th August, 1947 to 31st December, 1959. The enactments printed as modified up to the 31st December, 1959; but the amendments and repeals effected by the East Pakistan Repealing and Amending Ordinance, 1960 (E. P. Ord. XXVIII of 1960) have also been considered in preparing the text as well as the chronological table.

My acknowledgements are due to Mr. Syed Ahsan Ali, Special Officer of our Department, who has compiled this publication and has rendered valuable assistance in this connection.

Correction slips will be issued to keep this Volume corrected to date in accordance with current legislation.

Suggestion, if any, respecting this publication is cordially invited and communications may be addressed to the Law Department of the Government of East Pakistan.

1947 - 1959

DACCA;
17th June, 1961.

• M. H. ALI,
Secy. to the Govt. of East Pakistan.



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1956	VI	The Police (East Pakistan Amendment) Act, 1956.	523	
1956	VII	The Town Improvement (Amendment) Act, 1956.		Repealed by E.P. Ord. XXVIII of 1960.
1956	VIII	The East Bengal Public Safety (Repeal) Act, 1956.		Ditto.

Year. 1	No. 2	Short title. 3	Page. 4	Remarks. 5
1956	IX	The Bengal Legislative Assembly (Members' Emoluments) (East Pakistan Amendment) Act, 1956.		Repealed by E.P. Ord. XXVIII of 1960.
1956	X	The East Pakistan Food (Special Courts) Act, 1956.	525	
1956	XI	The East Bengal Jute Dealers Registration (Amendment) Act, 1956.		Repealed by E.P. Ord. XXVIII of 1960.
1956	XII	The Bengal Local Self-Government Associations (Recognition) (East Pakistan Amendment) Act, 1956.		Ditto.
1956	XIII	The Bengal Money-Lenders (East Pakistan Amendment) Act, 1956.		Ditto.
1956	XIV ✓	The Bengal Amusements Tax (East Pakistan Amendment) Act, 1956.		Ditto.
1956	XV	The East Pakistan Shops and Establishments (Amendment) Act, 1956.		Ditto.
1956	XVI	The Assembly Secretariat (East Pakistan) Act, 1956.	529	
1956	XVII	The East Pakistan Molasses Control Act, 1956 ..		Spent.
1956	XVIII	The Law of Evidence (Amendment) Act, 1956 ..	543	
1957	I	The East Pakistan Finance Act, 1956 ..		Spent.
1957	II	The East Pakistan Appropriation Act, 1957 ..		Ditto.
1957	III	The Court-Fees (East Pakistan Amendment) Act, 1957.		Repealed by E.P. Ord. XXVIII of 1960.
1957	IV	The East Bengal Jute Dealers Registration (Amendment) Act, 1957.		Ditto.
1957	V	The Bengal Jute Regulation (East Pakistan Amendment) Act, 1957.		Ditto.
1957	VI	The East Pakistan Food (Special Courts) (Amendment) Act, 1957.		Ditto.
1957	VII	The East Bengal (Emergency) Requisition of Property (Amendment) Act, 1957.		Ditto.
1957	VIII	The East Pakistan Animals Slaughter (Restriction) and Meat Control Act, 1957.	545	
1957	IX	The Bengal Public Demands Recovery (East Pakistan Amendment) Act, 1957.		Repealed by E.P. Ord. XXVIII of 1960.
1957	X	The East Pakistan Finance Act, 1957 ..	551	
1957	XI	The East Pakistan Urban Immovable Property Tax Act, 1957.	561	
1957	XII	The East Pakistan Jute Marketing Corporation Act, 1957.	567	

Year. 1	No. 2	Short title. 3	Page. 4	Remarks. 5
1957	XIII	The East Pakistan Cotton Ginning and Pressing Act, 1957.	575	
1957	XIV	The East Pakistan Development of Industries (Control and Regulation) Act, 1957.	581	
✓ 1957	XV ✓	The East Pakistan Film Development Corporation Act, 1957.	593	
1957	XVI	The East Pakistan Mines and Minerals (Regulation and Development) Act, 1957.	611	
✓ 1957	XVII	The East Pakistan Small and Cottage Industries Corporation Act, 1957.	615	
1957	XVIII	The Police (East Pakistan Amendment) Act, 1957.	637	
1957	XIX	The Bengal Electricity Duty (East Pakistan Amendment) Act, 1957.		Repealed by E.P. Ord. XXVIII of 1960. Parent Act repealed by Pak. Ord. X of 1960.
1957	XX	The Assam Municipal (East Pakistan Amendment) Act, 1957.		
1957	XXI	The Bengal Village Self-Government (East Pakistan Amendment) Act, 1957.		Repealed by E.P. Ord. XXVIII of 1960.
1957	XXII	The Bengal Municipal (East Pakistan Amendment) Act, 1957.		Ditto.
1957	XXIII	The Bengal Local Self-Government (East Pakistan Amendment) Act, 1957.		Ditto.
1957	XXIV	The Assam Local Self-Government (East Pakistan Amendment) Act, 1957.		Ditto.
✓ 1957	XXV	The Bengali Academy Act, 1957	639	
✓ 1957	XXVI	The East Pakistan Anti-Corruption Act, 1957	649	✓
1957	XXVII	The East Pakistan (Supplementary) Appropriation Act, 1957.		Spent.
✓ 1957	XXVIII	The East Pakistan (Rural) Primary Education (Supplementary Provisions) Act, 1957.	653	
1957	XXIX	The Bengal Alluvion and Diluvion (East Pakistan Amendment) Act, 1957.		Repealed by E.P. Ord. XXVIII of 1960.
1957	XXX	The East Pakistan Tea Act, 1957		Repealed by E.P. Ord. XLIX of 1959.
1957	XXXI	The Electricity (East Pakistan Amendment) Act, 1957.	655	
1957	XXXII	The East Bengal (Emergency) Requisition of Property (Second Amendment) Act, 1957.		Repealed by E.P. Ord. XXVIII of 1960.

Year. 1	No. 2	Short title. 3	Page. 4	Remarks. 5
1957	XXXIII	The East Pakistan State Acquisition (Ad-interim Payment) Act, 1957.	657	
1957	XXXIV	The Maulvi Bazar Municipal Board (Extension of the Term of Members) Act, 1957.		Spent.
1957	XXXV	The Bengal Village Self-Government (East Pakistan Second Amendment) Act, 1957.		Repealed by E.P. Ord. XXVIII of 1960.
1957	XXXVI	The Code of Criminal Procedure (East Pakistan Amendment) Act, 1957.	661	
1957	XXXVII	The East Pakistan Minimum Wages Act, 1957	679	
1957	XXXVIII	The East Pakistan State Acquisition (Bonds) Act, 1957.	685	
1958	I	The East Pakistan Appropriation (Vote on Account) Act, 1958.		Spent.
1958	II	The East Pakistan Appropriation Act, 1958		Ditto.
1958	III	The Kotchandpur Municipal Commissioners (Extension of Terms) Act, 1958.		Ditto.
1958	IV	The Moheshpur Municipality (Restoration) Act, 1958.		Ditto.
1958	V	The South Sylhet Local Board (Extension of the Term of Members) Act, 1958.		Repealed by E.P. Ord. XXVIII of 1960.
1958	VI	The North Sylhet Local Board (Extension of the Term of Members) Act, 1958.		Ditto.
1958	VII	The Sunamganj Local Board (Extension of the Term of Members) Act, 1958.		Ditto.
1958	VIII	The Assembly Members' Privileges (East Pakistan) Act, 1958.	695	
1958	IX	The Universities (Amendment) Act, 1958		Repealed by E.P. Ord. XXVIII of 1960.
1958	X	The East Pakistan Appropriation (No. II) Act, 1958.		Spent.
1958	XI	The East Pakistan Finance Act, 1958		Repealed by E. P. Ord. No. XXIX of 1959.
1958	XII	The East Pakistan Finance (Supplementary) Act, 1958.	701	

Year. 1	No. 2	Short title. 3	Page. 3	Remarks. 5
1947 (from 15-8-47)		2(a) Regulations made by the Governor of East Bengal under section 92(2) of the Government of India Act, 1935. Nil.		
1948	I	The Chittagong Hill-tracts (Second Amendment) Regulation, 1948.		Amending Regulation not printed. Repealed by E.B. Regulation III of 1952.
1949	I	The Chittagong Hill-tracts (Laws) Regulation, 1949.		
1950	I	The East Bengal Excluded and Partially Excluded Areas Laws (Second) Regulation, 1949.	703	
1950	II	The Mymensingh Partially Excluded Areas Tenancy Regulation, 1949.	705	
1950	III	The East Bengal Partially Excluded Areas Laws Regulation, 1950.	709	
1950	IV	The Chittagong Hill-tracts Co-operative Regulation, 1950.		Not printed.
1950	V	The Excluded and Partially Excluded Areas Laws Regulation, 1950.	711	
1951	I	The Chittagong Hill-tracts Sarais Regulation, 1951.	713	
1951	II	The Essential Supplies (Temporary Powers) Regulation, 1951.		Not printed.
1951	III	The Essential Supplies (Temporary Powers) (Orders) Regulation, 1951.		Ditto.
1952	I	The Mymensingh Partially Excluded Areas Debt Settlement (Tanka Tenants) Regulation, 1951.	715	
1952	II	The Chittagong Hill-tracts Business Profits Tax (Repeal) Regulation, 1951.		Not printed.
1952	III	The Chittagong Hill-tracts (Laws) Regulation, 1952.	725	
1952	IV	The Nalitabari Public Gambling Regulation, 1951.	729	
1953	I	The Chittagong Hill-tracts (Tarrif and Customs) Regulation, 1952.	731	
1953	II	The Chittagong Hill-tracts (Prevention of Corruption) Regulation, 1953.	733	
1954	I	The Chittagong Hill-tracts Opium Smoking Regulation, 1954.	735	
1954	II	The Chittagong Hill-tracts (Labour Laws) Regulation, 1954.	737	

Year. 1	No. 2	Short title. 3	Page. 4	Remarks. 5
1955	I ✓	The Chittagong Hill-tracts Cinematograph Regulation, 1954.	745	
1955	II	The Chittagong Hill-tracts Criminal Law (Industrial Areas) Regulation, 1955.	747	
1956	I	The Chittagong Hill-tracts (Amendment) Regulation, 1955.		Amending Regulation not printed.

2(b) Regulations made by the Governor of East Pakistan under Article 103(3) of the late Constitution of the Islamic Republic of Pakistan.

1956	II	The Chittagong Hill-tracts (Industrial Laws) Regulation, 1956.	749	
1956	III	The Chittagong Hill-tracts (Nurses) Regulation, 1956.	751	
1957	I	The Chittagong Hill-tracts Motor Vehicles Regulation, 1957.	753	
1957	II	The Chittagong Hill-tracts Petroleum Regulation, 1957.	755	
1957	III	The Chittagong Hill-tracts Motor Vehicles (Amendment) Regulation, 1957.		Amending Regulation not printed.
1958	I	The Chittagong Hill-tracts (Land Acquisition) Regulation, 1958.	757	
1959	I	The Chittagong Hill-tracts Government Lands and Buildings (Recovery of Possession) Regulation, 1959.	761	
1959	II	The Chittagong Hill-Tracts Employment (Record of Services) Regulation, 1959.	763	

3(a) Ordinances made by the Governor of East Bengal under section 88 of the Government of India Act, 1935.

1956	I	The Bengal Local Self-Government (East Bengal Amendment) Ordinance, 1956.		Repealed by E.P. Ord. XXVIII of 1960.
✓ 1956	II	The East Bengal School Text-Book (Amendment) Ordinance, 1956.	765	
1956	III	The East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956.		Repealed by E.P. Ord. XXVIII of 1960.

Year. 1	No. 2	Short title. 3	Page. 4	Remarks. 5
		3(b) Ordinances promulgated by the Governor of East Pakistan under Article 102 of the Constitution of the Islamic Republic of Pakistan.		
1958	I	The East Bengal Premises Rent Control (Amendment) Ordinance, 1957.		Repealed by E. P. Ord. No. XXXIV of 1958.
1958	II	The East Pakistan Union Board (Election) Ordinance, 1958.		Repealed by E.P. Ord. No. XXII of 1958.
✓ 1958	III	The Dacca University (East Pakistan Amendment) Ordinance, 1958.		Repealed by E.P. Ord. No. XXVII of 1958.
1958	IV	The Bengal Municipal (Supplementary Provisions) Ordinance, 1958.		Repealed by E.P. Ord. XX of 1958.
1958	V	The East Pakistan Trade Unions (Recognition) Ordinance, 1958.		Repealed by E.P. Ord. XXI of 1958.
1958	VI	The Bengal Tenancy (East Pakistan Amendment) Ordinance, 1958.		Repealed by E.P. Ord. XV of 1958.
1958	VII	The Sylhet Tenancy (East Pakistan Amendment) Ordinance, 1958.		Repealed by E.P. Ord. XVI of 1958.
1958	VIII	The Assembly Secretariat (East Pakistan) (Amendment) Ordinance, 1958.		Repealed by E.P. Ord. XXV of 1958.
1958	IX	The Kotchandpur Municipal Commissioners (Extension of Terms) Ordinance, 1958.		Repealed by E.P. Act III of 1958.
1958	X	The Bengal Co-operative Societies (East Pakistan Amendment) Ordinance, 1958.		Repealed by E.P. Ord. XXX of 1958.
1958	XI	The East Pakistan Recovery of Rent (Special Provisions) Ordinance, 1958.		Repealed by E.P. Ord. XXIII of 1958.
1958	XII	The Code of Criminal Procedure (East Pakistan Amendment) Ordinance, 1958.		Repealed by E.P. Ord. XXXIII of 1958.
1958	XIII	The Assembly Secretariat (East Pakistan) (Second Amendment) Ordinance, 1958.		Repealed by E.P. Ord. XXXII of 1958.
1958	XIV	The Chowgram Union Board (Extension of the Period of Supersession) Ordinance, 1958.		Repealed by E.P. Ord. XVIII of 1958.
1958	XV	The Bengal Tenancy (East Pakistan Second Amendment) Ordinance, 1958.		Repealed by E.P. Ord. XLVI of 1958.

Year. 1	No. 2	Short title. 3	Page. 4	Remarks. ✓ 5
1958	XVI	The Sylhet Tenancy (East Pakistan Second Amendment) Ordinance, 1958.		Repealed by E.P. Ord. XLVII of 1958.
1958	XVII	The East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1958.		Repealed by E.P. Ord. XLIV of 1958.
1958	XVIII	The Chowgram Union Board (Extension of the Period of Supersession) (Second) Ordinance, 1958.		Spent.
1958	XIX	The Bengal Municipal (East Pakistan Amendment) Ordinance, 1958.		Repealed by E.P. Ord. LII of 1958.
1958	XX	The East Pakistan Constitution of Municipalities Ordinance, 1958.		Repealed by E.P. Ord. LIII of 1958.
1958	XXI	The East Pakistan Trade Unions (Recognition) (Second) Ordinance, 1958.		Repealed by E.P. Ord. LIX of 1958.
1958	XXII	The Bengal Village Self-Government (Supplementary Provision) Ordinance, 1958.		Repealed by E.P. Ord. LVI of 1958.
1958	XXIII	The East Pakistan Recovery of Rent (Special Provisions) (Second) Ordinance, 1958.		Repealed by E.P. Ord. XXXIX of 1958.
1958	XXIV	The Bengal Local Self-Government (Amendment) Ordinance, 1958.		Repealed by E.P. Ord. LV of 1958.
1958	XXV	The Assembly. Secretariat (East Pakistan) (Third Amendment) Ordinance, 1958.		Repealed by E.P. Ord. XLII of 1958.
1958	XXVI	The East Pakistan Commissions of Inquiry Ordinance, 1958.		Repealed by E.P. Ord. LI of 1958.
✓ 1958	XXVII	The Dacca University (East Pakistan Second Amendment) Ordinance, 1958.		Repealed by E.P. Act IX of 1958.
✓ 1958	XXVIII	The Sylhet Rural Primary Education (Supplementary Provisions) Ordinance, 1958.		Repealed by E.P. Ord. LIV of 1958.
1958	XXIX	The East Pakistan Essential Services Ordinance, 1958.		Repealed by E.P. Ord. XLI of 1958.
1958	XXX	The Bengal Co-operative Societies (East Pakistan Second Amendment) Ordinance, 1958.		Repealed by E.P. Ord. L of 1958.
1958	XXXI	The East Pakistan Undesirable Companies Ordinance, 1958.		Repealed by E.P. Ord. XLIX of 1958.

Year. 1	No. 2	Short title. 3	Page. 4	Remarks. 5
1958	XXXII	The Assembly Secretariat (East Pakistan) (Fourth Amendment) Ordinance, 1958.		Repealed by E.P. Ord. LVIII of 1958.
1958	XXXIII	The Code of Criminal Procedure (East Pakistan Second Amendment) Ordinance, 1958.		Repealed by E.P. Ord. LXIV of 1958.
1958	XXXIV	The East Bengal Premises Rent Control (Amendment) Ordinance, 1958.		Repealed by E.P. Ord. LXXI of 1958.
1958	XXXV	The East Pakistan Development of Industries (Control and Regulation) (Amendment) Ordinance, 1958.		Repealed by E.P. Ord. LXI of 1958.
✓ 1958	XXXVI	The Rajshahi University (Amendment) Ordinance, 1958.		Repealed by E.P. Act IX of 1958.
✓ 1958	XXXVII	The Dacca University (East Pakistan Third Amendment) Ordinance, 1958.		Repealed by E.P. Ord. LX of 1958.
1958	XXXVIII	The Bengal Village Self-Government (East Pakistan Amendment) Ordinance, 1958.		Repealed by E.P. Ord. LVII of 1958.
1958	XXXIX	The East Pakistan Recovery of Rent (Special Provisions) (Third) Ordinance, 1958.		Repealed by E.P. Ord. VIII of 1959.
1958	XL	The East Pakistan Finance Ordinance, 1958 ..		Repealed by E.P. Act XI of 1958 .
1958	XLI	The East Pakistan Essential Services (Second) Ordinance, 1958.	767	
1958	XLII	The Assembly Secretariat (East Pakistan) (Fifth Amendment) Ordinance, 1958.		Repealed by E.P. Ord. XXVIII of 1960.
1958	XLIII	The Bengal Jute Regulation (East Pakistan Amendment) Ordinance, 1958.		Ditto.
1958	XLIV	The East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1958.		Ditto.
1958	XLV	The Bengal Jute Regulation (Extension to Sylhet) Ordinance, 1958.	769	
1958	XLVI	The Bengal Tenancy (East Pakistan Third Amendment) Ordinance, 1958.		Repealed by E.P. Ord. XXVIII of 1960.
1958	XLVII	The Sylhet Tenancy (East Pakistan Third Amendment) Ordinance, 1958.		Ditto.
1958	XLVIII	The East Pakistan Preventive Detention Ordinance, 1958.		Repealed by E.P. Ord. No. LXX of 1958.
1958	XLIX	The East Pakistan Undesirable Companies (Second) Ordinance, 1958.	771	

Year. 1	No. 2	Short title. 3	Page. 4	Remarks. 5
1958	L	The Bengal Co-operative Societies (East Pakistan Third Amendment) Ordinance, 1958.		Repealed by E. P. Ord. XXVIII of 1960.
1958	LI	The East Pakistan Commissions of Inquiry (Second) Ordinance, 1958.	777	
1958	LII	The Bengal Municipal (East Pakistan Second Amendment) Ordinance, 1958.		Repealed by E.P. Ord. XXVIII of 1960.
1958	LIII	The East Pakistan Constitution of Municipalities (Second) Ordinance, 1958.		Not printed.
✓ 1958	LIV	The Sylhet Rural Primary Education (Supplementary Provisions) (Second) Ordinance, 1958.	781	
1958	LV	The Bengal Local Self-Government (Second Amendment) Ordinance, 1958.		Repealed by E.P. Ord. XXVIII of 1960.
1958	LVI	The Bengal Village Self-Government (Supplementary Provision) (Second) Ordinance, 1958.		Not printed. Parent Act repealed by President's Order No. 18 of 1959.
1958	LVII	The Bengal Village Self-Government (East Pakistan Second Amendment) Ordinance, 1958.		Repealed by E.P. Ord. XXVIII of 1960.
1958	LVIII	The Assembly Secretariat (East Pakistan) (Sixth Amendment) Ordinance, 1958.		Ditto.
1958	LIX	The East Pakistan Trade Unions (Recognition) (Third) Ordinance, 1958.	783	
✓ 1958	LX	The Dacca University (East Pakistan Fourth Amendment) Ordinance, 1958.		Repealed by E.P. Ord. LIII of 1959.
1958	LXI	The East Pakistan Development of Industries (Control and Regulation) (Second Amendment) Ordinance, 1958.		Repealed by E. P. Ord. XXVIII of 1960.
✓ 1958	LXII	The Universities (Amendment) Ordinance, 1958.		Ditto.
1958	LXIII	The East Pakistan Forest Industries Development Corporation Ordinance, 1958.		Repealed by E.P. Ord. LXVII of 1959.
1958	LXIV	The Code of Criminal Procedure (East Pakistan Third Amendment) Ordinance, 1958.	789	
1958	LXV	The East Pakistan Finance (Second) Ordinance, 1958.		Repealed by E.P. Act XII of 1958.

Year. 1	No. 2	Short title. 3	Page. 4	Remarks. 5
1958	LXVI	The Bengal Agricultural Debtors (East Pakistan Amendment) Ordinance, 1958.		Repealed by E.P. Ord. XXVIII of 1960.
1958	LXVII	The East Pakistan Small-Scale and Cottage Industries Corporation (Amendment) Ordinance, 1958.		Ditto.
1958	LXVIII	The Court of Wards (East Pakistan Amendment) Ordinance, 1958.		Ditto.
1958	LXIX	The Town Improvement (Amendment) Ordinance, 1958.		Ditto.
1958	LXX	The East Pakistan Preventive Detention (Repeal) Ordinance, 1958.		Ditto.
1958	LXXI	The East Bengal Premises Rent Control (Second Amendment) Ordinance, 1958.		Not printed.

3(c) Ordinances promulgated by the Governor of East Pakistan in pursuance of Presidential Proclamation of the 7th day of October, 1958.

1958	LXXII	The East Pakistan Anti-Corruption (Amendment) Ordinance, 1958.		Repealed by E.P. Ord. XXVIII of 1960.
1958	LXXIII	The East Pakistan Prevention of Prejudicial Acts Ordinance, 1958.		Repealed by E.P. Ord. LXXVIII of 1958.
1958	LXXIV	The Payment of Gratuity (<i>Ex-Gratia</i>) Ordinance, 1958.		Spent.
1958	LXXV	The East Pakistan Inland Water Transport Authority Ordinance, 1958.	793	
1958	LXXVI	The Inland Mechanically Propelled Vessels (East Pakistan Amendment) Ordinance, 1958.	803	
1958	LXXVII	The East Pakistan Anti-Corruption Laws (Validation) Ordinance, 1958.	805	
1958	LXXVIII	The East Pakistan Public Safety Ordinance, 1958.	807	
✓ 1958	LXXIX	The Dacca University (East Pakistan Fifth Amendment) Ordinance, 1958.		Repealed by E.P. Ord. XXVIII of 1960.
1958	LXXX	The East Pakistan Animal Slaughter (Restriction) and Meat Control (Amendment) Ordinance, 1958.		Ditto.
1958	LXXXI	The East Pakistan Jute Marketing Corporation (Amendment) Ordinance, 1958.		Ditto.
1958	LXXXII	The East Pakistan Finance (Third) Ordinance, 1958.	839	

Year. 1	No. 2	Short title. 3	Page. 4	Remarks. 5
1958	LXXXIII	The Sunamganj Local Board (Extension of the Term of Members) (Amendment) Ordinance, 1958.		Repealed by E.P. Ord. XXVIII of 1960.
1958	LXXXIV	The North Sylhet Local Board (Extension of the Term of Members) (Amendment) Ordinance, 1958.		Ditto.
1958	LXXXV	The South Sylhet Local Board (Extension of the Term of Members) (Amendment) Ordinance, 1958.		Ditto.
1959	I	The East Pakistan Water and Power Development Authority Ordinance, 1958.	843	
1959	II	The Eastern Pakistan Rifles (Amendment) Ordinance, 1959.		Repealed by E.P. Ord. XXVIII of 1960.
1959	III	The Hackney Carriage (East Pakistan Amendment) Ordinance, 1959.	857	
1959	IV	The East Bengal State Acquisition and Tenancy (Third Amendment) Ordinance, 1959.		Repealed by E.P. Ord. XXVIII of 1960.
1959	V	The East Pakistan Transfer of Immovable Property (Relaxation of Restriction) Ordinance, 1959.	859	
1959	VI	The Sairat Mahals (Management) Ordinance, 1959.	863	
1959	VII	The Payment of Gratuity (<i>Ex-Gratia</i>) Ordinance, 1959.		Spent.
1959	VIII	The East Pakistan Recovery of Rent (Special Provisions) (Repeal) Ordinance, 1959.		Repealed by E.P. Ord. XXVIII of 1960.
1959	IX	The East Pakistan Inland Water Transport Authority (Amendment) Ordinance, 1959.		Ditto.
1959	X	The Bengal Public Demands Recovery (Extension to Sylhet) Ordinance, 1959.	865	
1959	XI	The East Pakistan Criminal Laws (Extension to Sylhet) Ordinance, 1959.	867	
1959	XII	The East Pakistan Cattle (Prevention of Trespass) Ordinance, 1959.	869	
1959	XIII	The Culturable Waste Land (Utilization) Ordinance, 1959.	871	
1959	XIV	The East Pakistan Union Board (Removal of Members) Ordinance, 1959.		Not printed.
1959	XV	The East Pakistan Inland Water Transport Authority (Second Amendment) Ordinance, 1959.		Repealed by E.P. Ord. XXVIII of 1960.

Year. 1	No. 2	Short title. 3	Page. 4	Remarks. 5
1959	XVI	The East Pakistan Tenancy Laws (Amendment) Ordinance, 1959.	873	
1959	XVII	The East Pakistan Fire Services Ordinance, 1959.	875	
1959	XVIII	The Electricity (East Pakistan Amendment) Ordinance, 1959.	893	
1959	XIX	The East Pakistan Hats and Bazars (Establishment and Acquisition) Ordinance, 1959.	895	
1959	XX	The Cess (East Pakistan Amendment) Ordinance, 1959.		Repealed by E.P. Ord. XXVIII of 1960.
1959	XXI	The East Pakistan Water and Power Development Authority (Amendment) Ordinance, 1959.		Ditto.
1959	XXII	The Town Improvement (Amendment) Ordinance, 1959.		Ditto.
1959	XXIII	The Bengal Jute Regulation (East Pakistan Amendment) Ordinance, 1959.		Ditto.
1959	XXIV	The East Pakistan Government Fisheries (Protection) Ordinance, 1959.	897	
1959	XXV	The East Bengal (Emergency) Requisition of Property (Amendment) Ordinance, 1959.		Repealed by E.P. Ord. XXVIII of 1960.
1959	XXVI	The Bengal General Clauses (East Pakistan Amendment) Ordinance, 1959.		Ditto.
1959	XXVII	The Assam General Clauses (East Pakistan Amendment) Ordinance, 1959.		Ditto.
1959	XXVIII	The East Pakistan Appropriation Ordinance, 1959.		Spent.
1959	XXIX	The East Pakistan Finance Ordinance, 1959.		Repealed by E.P. Ord. XLVI of 1959.
1959	XXX	The East Pakistan Local Bodies (Removal of Members) Ordinance, 1959.		Not printed.
1959	XXXI	The East Pakistan (Plantation Employees) Provident Fund Ordinance, 1959.	899	
1959	XXXII	The Town Improvement (Second Amendment) Ordinance, 1959.		Repealed by E.P. Ord. XXVIII of 1960.
1959	XXXIII	The Inland Mechanically Propelled Vessels (East Pakistan Amendment) Ordinance, 1959.	909	
1959	XXXIV	The East Pakistan Private Forest Ordinance, 1959.	911	

Year. 1	No. 2	Short title. 3	Page. 4	Remarks. 5
1959	XXXV	The Assam Land and Revenue (East Pakistan [†] Amendment) Ordinance, 1959.		Repealed by E. P. Ord. XXVIII of 1960.
✓ 1959	XXXVI	The East Pakistan Cadet College Ordinance, 1959.	947	
✓ 1959	XXXVII	The Dacca University Court (Suspension) Ordinance, 1959.		Spent.
1959	XXXVIII	The East Pakistan Public Safety (Amendment) Ordinance, 1959.		Repealed by E. P. Ord. XXVIII of 1960.
1959	XXXIX	The East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1959.		Ditto.
1959	XL	The East Pakistan Appropriation (Amendment) Ordinance, 1959.		Ditto.
1959	XLI	The East Pakistan Transfer of Certificates Cases Ordinance, 1959.	951	
1959	XLII	The Financial Year (Transitional Provisions) Ordinance, 1959.		Repealed by E. P. Ord. XXVIII of 1960.
1959	XLIII	The Town Improvement (Third Amendment) Ordinance, 1959.		Ditto.
1959	XLIV	The East Pakistan Appropriation (Supplementary) Ordinance, 1959.		Spent.
1959	XLV	The East Pakistan Appropriation (No. II) Ordinance, 1959.	953	
1959	XLVI	The East Pakistan Finance (No. II) Ordinance, 1959.	957	
✓ 1959	XLVII	The Bengal (Rural) Primary Education (Amendment) Ordinance, 1959.		Repealed by E. P. Ord. XXVIII of 1960.
1959	XLVIII	The East Pakistan Water and Power Development Authority (Second Amendment) Ordinance, 1959.		Ditto.
1959	XLIX	The East Pakistan Tea (Repeal) Ordinance, 1959.		Ditto.
1959	L	The Inland Mechanically Propelled Vessels (East Pakistan Second Amendment) Ordinance, 1959.	967	
1959	LI	The Chittagong Development Authority Ordinance, 1959.	969	
1959	LII	The East Bengal State Acquisition and Tenancy (Third Amendment) Ordinance, 1959.	1005	
✓ 1959	LIII	The Dacca University (East Pakistan Amendment) Ordinance, 1959.		Repealed by E. P. Ord. XXVIII of 1960.

Year. 1	No. 2	Short title	Page. 4	Remarks.
1959	LIV ✓	The Bengal Amusements Tax (East Pakistan Amendment) Ordinance, 1959.		Repealed by E.P. Ord. XXVIII of 1960. Spent.
1959	LV	The Sunamganj Municipal Board (Extension of the Term of Members) Ordinance, 1959.		
1959	LVI	The Moulvi Bazar Municipal Board (Extension of the Term of Members) Ordinance, 1959.		Ditto.
1959	LVII	The East Pakistan Rent Receipt Ordinance, 1959.	1007	
1959	LVIII	The East Bengal Shops and Establishments (Amendment) Ordinance, 1959.		Repealed by E.P. Ord. XXVIII of 1960.
1959	LIX	The East Pakistan Transfer of Immovable Property (Relaxation of Restriction) (Amendment) Ordinance, 1959.		Ditto.
1959	LX	The East Bengal State Acquisition and Tenancy (Fourth Amendment) Ordinance, 1959.		Ditto.
1959	LXI ✓	The Cinematograph (East Pakistan Amendment) Ordinance, 1959.	1009	
1959	LXII	The Bengal Highways (Extension to Sylhet) Ordinance, 1959.	1011	
1959	LXIII	The Bengal Public Demands Recovery (East Pakistan Amendment) Ordinance, 1959.		Repealed by E.P. Ord. XXVIII of 1960.
1959	LXIV	The Tolls (East Pakistan Amendment) Ordinance, 1959.	1013	
✓ 1959	LXV	The Chittagong Muslim Institute Ordinance, 1959.	1015	
1959	LXVI	The East Pakistan Warehouses Ordinance, 1959.	1017	
1959	LXVII	The East Pakistan Forest Industries Development Corporation Ordinance, 1959.	1025	
1959	LXVIII	The East Pakistan Pure Food Ordinance, 1959	1031	
1959	LXIX	The East Bengal State Acquisition and Tenancy (Fifth Amendment) Ordinance, 1959.		Repealed by E.P. Ord. XXVIII of 1960.
1959	LXX	The Sylhet Tenancy (East Pakistan Amendment) Ordinance, 1959.		Ditto.
1959	LXXI	The Bengal Tenancy (East Pakistan Amendment) Ordinance, 1959.		Ditto.
1959	LXXII	The East Bengal Betterment Fees (Amendment) Ordinance, 1959.		Ditto.

Year. 1	No. 2	Short title	Page. 4	Remark. 5
1959	LXXIII	The Bengal Wakf (East Pakistan Amendment) Ordinance, 1959.		Repealed by E.P. Ord. XXVIII of 1960.
1959	LXXIV	The Bengal Nurses (East Pakistan Amendment) Ordinance, 1959.		Ditto.
1959	LXXV	The East Pakistan Public Safety (Second Amendment) Ordinance, 1959.		Ditto.
1959	LXXVI	The Dhanmandai Residential Zone (Termination of Lease) Ordinance, 1959.	1065	
1959	LXXVII	The Town Improvement (Fourth Amendment) Ordinance, 1959.		Repealed by E.P. Ord. XXVIII of 1960.
1959	LXXVIII	The Forest (East Pakistan Amendment) Ordinance, 1959.	1067	

East Bengal Act VII of 1948.

THE ANSARS ACT, 1948.¹

[17th June, 1948].

An Act to provide for the constitution of a voluntary force to be known as the Ansars.

WHEREAS it is expedient to mobilise the resources of this Province to ensure the safety of the State and to prepare for the great tasks of social and economic reconstruction that lie ahead;

It is hereby enacted as follows:—

1. (1) This Act may be called the Ansars Act, 1948. Short title and extent.
(2) It extends to the whole of ²[East Pakistan].
2. In this Act, unless there is anything repugnant in the subject or context,—“Director-General” means an officer appointed as such by the Provincial Government to discharge the functions of a Director-General of Ansars, under this Act. Definition.
3. (1) The Ansars shall be raised on a voluntary basis, and equipped and trained under the order of the Provincial Government and shall perform such duties and exercise such powers as may be prescribed by the rules under the Act. Constitution of the Ansars and the duties to be performed by them.
(2) For carrying out the purposes of this Act, the Provincial Government may appoint an officer as “Director-General” and other officers to assist him as it thinks fit.
(3) The Provincial Government may delegate all or any of its powers other than the powers under section 5 to the Director-General or to an officer nominated by the Government to officiate for him or to the District Magistrates within their respective jurisdictions.

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 29th March, 1948, Part IVA, page 2; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 1st, 5th and 6th April, 1948.

The Act was extended to those areas of the Mymensingh district which were known as “partially excluded areas” immediately before the coming into force of the Constitution which was abrogated by the Presidential Proclamation of the 7th October, 1953, vide notification No. 855Pl., dated the 24th March, 1959 published in *Dacca Gazette*, dated the 14th April, 1949, Part I, page 298.

²The words within square brackets were substituted for the words “East Bengal” by B. P. Ord. XXVIII. of 1960, First Schedule.

(Sections 4,5.)

(4) Persons appointed under sub-section (2) shall exercise such powers as may be conferred, and perform such duties as may be required, by or under this Act.

Embodiment
of the Ansars
into the
Provincial
Police Force.

4. (1) The Provincial Government may, by notification in the *Official Gazette*, order the embodiment into the Provincial Police Force of the Ansars in their entirety or such portion thereof as it may determine, for a specified period which may be extended from time to time.

(2) When so embodied, they shall be subject to the [Police Act, 1861].

Act V of
1861.

Power to
make rules.

5. (1) The Provincial Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) Recruitment, training and discharge of members of the Ansars.
- (b) Organisation and discipline.
- (c) The terms and conditions of their service.
- (d) Rates of pay and other conditions in the event of embodiment for full time service.
- (e) Any other matter necessary for the maintenance of the Ansars Organisation.

¹The words, comma and figures within square brackets were substituted for the words, commas and figures "Indian Police Act, 1861, as adapted to Pakistan" by E. P. Ord. XXVIII of 1960, First Schedule.

East Bengal Act VIII of 1948.

THE EAST BENGAL REGISTRATION FEES (EXTENSION TO SYLHET) ACT, 1948.¹

[21st June, 1948.]

An Act to enforce the rates of registration fees prevailing in the other districts of ²[East Pakistan] to the district of Sylhet.

WHEREAS it is expedient to enforce the rates of registration fees prevailing in the other districts of ²[East Pakistan] to the district of Sylhet;

It is hereby enacted as follows:—

1. This Act may be called the East Bengal Registration Fees (Extension to Sylhet) Act, 1948. Short title.

2. Notwithstanding anything contained in any other law for the time being in force, in the district of Sylhet, the following shall be applicable to that district, namely:— Applicability of the provisions of certain laws, etc., in the district of Sylhet.

XVI of
1908.

(a) the Table of fees under ³[the Registration Act], 1908, published under Government of Bengal notification No. 904 Regn., dated the 22nd September, 1928, as amended by notification No. 1334C/Regn., dated the 24th December, 1943;

(b) the Bengal Registration Rules, 1939, published by notification No. 165T/Regn., dated the 27th September, 1939; and

(c) the instructions, notifications and orders issued by the Inspector-General of Registration and the Government of Bengal as embodied in the Bengal Registration Manual, 1928, save and except the instructions contained in Part V and the relevant paragraphs of Part VI thereof which deal with the scales of pay of officers and the clerical establishment of the Registration Department.

XVI of
1908.

3. The rules, instructions and orders in respect of ³[the Registration Act], 1908, issued by the Assam Government shall be treated as cancelled so far as the district of Sylhet is concerned in the manner and to the extent indicated and described in the foregoing sections of this Act, save and except rules, instructions and orders issued by that Government for registration of documents under the Sylhet Tenancy Act, 1936. Cancellation of rules, etc., issued by the Assam Government under the Registration Act, 1908.

Assam
Act, XI
of 1936.

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 6th April, 1948, Pt. IV A, p. 2; for proceedings in the Assembly, see the proceedings of the meeting of the East Bengal Legislative Assembly held on the 10th April, 1948.

²The words within square brackets were substituted for the words "East Bengal" by E. P. Ord. XXVII of 1960. First Schedule.

³The words within square brackets were substituted for the words "the Indian Registration Act", *ib id.*

(Section 4.)

Validation of
action taken.

4 . Anything done or any action taken by the Inspector-General of Registration, ¹[East Pakistan], or the Provincial Government, relating to the realisation of registration fees in the district of Sylhet, at the rates prevailing in the other districts of ¹[East Pakistan], on or from the 1st day of October, 1947, shall be deemed to be as valid as if such action had been taken under this Act.

¹The words within square brackets were substituted for the words "East Bengal" by E. P. Ord. XXVIII of 1960, First Schedule.

East Bengal Act XIII of 1948.

THE EAST BENGAL (EMERGENCY) REQUISITION
OF PROPERTY ACT, 1948¹.

[16th August, 1948.]

*An Act to provide for special measures for (emergency requisition of property in connection with the administration and development of*²*[East Pakistan].*

WHEREAS an emergency has arisen due to Partition of Bengal which renders it necessary to provide for special measures for the requisition of property in connection with the administration and development of ²[East Pakistan];

It is hereby enacted as follows:—

1. (1) This Act may be called the East Bengal (Emergency) Requisition of Property Act, 1948. Short title,
extent and
duration.

(2) It extends to the whole of ³[East Pakistan].

(3) It shall come into force in such areas on such dates⁴ as the Provincial Government may, by notification in the *Official Gazette*, direct.

⁵(4) It shall remain in force for a period of twelve years.

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

(1) "owner" includes the occupier, and

(2) "property" means any movable or immovable property.

3. If in the opinion of the Provincial Government it is expedient or necessary so to do for the administration and development of ²[East Pakistan] or for any other public Requisition-
ing of pro-
perty.

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 6th April, 1948, Part IVA, page 5; for proceedings of the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly, held on the 7th April, 1948, 10th June, 1948 and 14th June, 1948.

²The words within square brackets were substituted for the words "the New Province of East Bengal" by E. P. Ord. XXVIII of 1960, First Schedule.

³The words within square brackets were substituted for the words "East Bengal" *ibid*.

⁴The Act came into force with effect from the 16th August, 1948, *vide* Notification No. 4834-Regn., dated 16th August, 1948, published in *Dacca Gazette, Extraordinary*, dated the 16th August, 1948, Part I, page 1.

The Act was extended with effect from 16th August 1948, to those areas of the Mymensingh district which were known as "Partially excluded areas" immediately before the coming into force of the Constitution which was abrogated by the Presidential Proclamation of the 7th day of October 1958, *vide* Notification No. 4835-Regn., dated 16th August, 1948, published in *Dacca Gazette, Extraordinary* dated 16th August, 1948, Part I, Page 1.

⁵This is how sub-section (4) of section 1 reads after successive amendments by the East Bengal (Emergency) Requisition of Property (Amendment) Act, 1952 (East Bengal Act III of 1952), the East Bengal (Emergency) Requisition of Property (Amendment) Act, 1954 (East Bengal Act III of 1954) and the East Bengal (Emergency) Requisition of Property (Second Amendment) Act, 1957 (East Pakistan Act XXXII of 1957).

(Sections 4,5.)

interest connected therewith such as improvement of towns or ports, construction or betterment of roads, waterways or other communications, development of commerce or industries, maintenance of supplies and services essential to the life of the community and other similar purpose, the Provincial Government may by order in writing requisition any property and may make such further orders as appear to that Government to be necessary or expedient in connection with such requisition:

Provided that no property used by the public for the purpose of religious worship shall be requisitioned :

Provided further that the Provincial Government may exempt any particular property or class of properties or exclude any particular area from the operation of this Act.

Service of
order of re-
quisition.

4. (1) When an order of requisition has been made under section 3, it shall be served on the owner of the property personally by delivering or tendering it to him or where the owner cannot be found it shall be served by leaving an authentic copy of the order with some adult male member of the family of such owner, or and, if no such adult male member can be found, the notice may be served by affixing such copy to some conspicuous part of the premises in which he is known to have last resided or carried on business or personally worked for gain and also by affixing another such copy to some conspicuous part of the requisitioned property.

(2) Where the order of the requisition has been served under sub-section (1) in respect of a property, the Provincial Government may take possession of the property forthwith and may use or deal with the property in such manner as may appear to it to be expedient:

Provided that notwithstanding anything contained in section 15 the Provincial Government shall not delegate its powers of taking possession to an officer other than one having a gazetted rank.

sition
erty.

5. (1) The Provincial Government may, if it thinks fit, acquire any requisitioned property and if it proposes to so acquire, the Provincial Government shall direct an officer authorised under this Act to cause a public notice to be given at convenient places on or near the property to be acquired stating that the Government intends to acquire the property.

(2) Such notice shall state particulars of the property to be acquired, and shall require all persons interested in the property to appear personally or by agent before the officer mentioned in sub-section (1) at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice) and to state

(Section 5A.)

the nature of their respective interests in the property, their objections (if any) to the acquisition of the property and particulars of their claims to compensation for their respective interests.

(3) Notice shall also be served to the above effect on the owner of such property and on all such persons known or believed to be interested therein or to be entitled to act for persons so interested as reside or have agents authorised to receive service on their behalf within the revenue district in which the property is situated.

(4) In case any person so interested resides elsewhere and has no such agent, the notice shall be sent to him by registered post in a letter addressed to him at his last known residence, address or place of business.

XLV of 1860. 1 [(4a) Every person required to make or deliver a statement under sub-sections (2), (3) and (4) shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Pakistan Penal Code.]

(5) The officer authorised under sub-section (1) shall after hearing all objections and after making such further enquiry, if any, as he thinks necessary submit the case for the decision of the Provincial Government together with the record of the proceedings held by him and a report containing his recommendations on the objections.

(6) The Provincial Government after considering the report made under sub-section (5) shall make a decision about the acquisition of the requisitioned property and such decision of the Provincial Government shall be final.

(7) The Provincial Government shall then publish in the *Official Gazette* a notice to the effect that the Provincial Government has decided to acquire the requisitioned property. On and from the beginning of the day on which the notice is so published the requisitioned property shall vest absolutely in the Government free from all encumbrances and the period of such requisition of such property shall end.

2 [5A. For the purpose of enquiries under this Act, the officer authorised by the Provincial Government under sub-section (1) of section 5 shall have the power to summon and enforce the attendance of witnesses, including the parties interested or any of them and to compel the production of documents by the same means, and (so far as may be) in the same manner, as is provided in the case of Civil Court under the Code of Civil Procedure.] Power to summon, etc.

¹This sub-section was inserted by section 4 of the East Bengal (Emergency) Requisition of Property (Amendment) Act, 1954 (East Bengal Act III of 1954).

²This section was inserted by section 5, *ibid*.

(Sections 6, 7.)

Compensation for movable property.

6. Whenever any movable property is requisitioned or acquired under the Act, the owner thereof shall be paid such compensation as may be determined by the District Magistrate subject to revision by the Provincial Government.

Compensation for immovable property.

7. Whenever any immovable property is requisitioned or acquired under this Act, there shall be paid compensation the amount of which shall be determined in the manner, and in accordance with the principles, hereinafter set out, that is to say,—

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

¹[(aa) where no such agreement can be reached, the Provincial Government shall assess compensation for the immovable property and the District Magistrate shall give immediate notice of the assessment to the person or persons interested;

(aaa) (i) any person interested who has not accepted the assessment may by written application to the Provincial Government require that the matter may be referred to an arbitrator;

(ii) the application shall state the grounds on which objection to the assessment is taken:

Provided that every such application shall be made within six weeks of the service of the notice by the District Magistrate under clause (aa) or within three months from the date of Provincial Government's order of assessment, whichever period shall later expire];

²[(b) on receipt of such application, the Provincial Government shall appoint as arbitrator a person who holds a judicial office not inferior to that of a Subordinate Judge];

(c) the Provincial Government may, in any particular case, nominate a person having expert knowledge as to the nature of the property requisitioned or acquired, to assist the arbitrator, and where such nomination is made, the person to be compensated may also nominate an assessor for the said purpose;

(d) at the commencement of the proceedings before the arbitrator, the Provincial Government and

¹These clauses were inserted by sub-section (1) of section 6 of the East Bengal (Emergency) Requisition of Property (Amendment) Act, 1954 (East Bengal Act III of 1954).

²This clause was substituted for the original clause (b) by sub-section (2) of section 6, *ibid.*

The East Bengal (Emergency) Requisition of Property Act, 1948. 11

of 1948.]

(Section 7.)

the person to be compensated shall state what in their respective opinions is a fair amount of compensation;

- of 1894. (e) the arbitrator in making his award shall have regard to the provisions of ^{1****} section 23 and sub-section (2) of section 35 of the Land Acquisition Act, 1894, so far as the same can be made applicable:

²[Provided that—

- (i) subject to the provisions of clauses (ii) and (iii) of this proviso, the market value of any immovable property for the purposes of this section shall be the market value of the property at the date of the order of its requisition under section 3;
- (ii) the market value of any immovable property within a radius of 15 miles from the respective Collectorate buildings of Dacca and Chittagong shall be the market value of such property in 1953;
- (iii) when there has been any transfer of ownership of any such immovable property after 1953, the market value of such immovable property shall be the price paid by the owner plus 15 *per centum* thereof];

³Provided further that in awarding compensation for the requisition of any immovable property to which the provisions of ⁴[the East Bengal Premises Rent Control Act 1953] or any other law for the time being in force, for the control of house rents, apply, the arbitrator shall have regard to those provisions, so that the compensation awarded may not exceed the amount of rent allowable in respect of such property by such ⁵[Act or law];

E.B. Act
XVI
of 1953.

¹The expression "sub-section (1) of" originally occurring in this clause was omitted by clause (a) of section 4 of the East Bengal (Emergency) Requisition of Property (Amendment) Act, 1952 (East Bengal Act III of 1952).

²This is how the proviso stands after being successively amended by the East Bengal (Emergency) Requisition of Property (Second Amendment) Act, 1957 (East Pakistan Act XXXII of 1957) and the East Bengal (Emergency) Requisition of Property (Amendment) Ordinance, 1959 (East Pakistan Ordinance No. XXV of 1959).

³This further proviso to clause (e) of section 7 was added by clause (b) of section 4 of the East Bengal (Emergency) Requisition of Property (Amendment) Act, 1952 (East Bengal Act III of 1952).

⁴The words, comma and figures within square brackets were substituted for the words, comma and figures "the East Bengal Premises Rent Control Ordinance, 1951" by E.P. Ord. XXVIII of 1960, First Schedule.

⁵The words within square brackets were substituted for the words "Ordinance or Law, *ibid.*"

(Sections 7A, 7B.)

- (f) an appeal shall lie to the High Court against an award of an arbitrator except in cases where the amount thereof does not exceed an amount specified in this behalf by rule made by the Provincial Government;
- (g) save as provided in this section and in any rules made thereunder nothing in any law for the time being in force shall apply to arbitrations under this section.

Dispute,
award and
Civil Suit.

¹7A. (1) Where there is any dispute as to the apportionment of compensation or any part thereof or as to the person to whom the same or any part thereof is payable, the District Magistrate after hearing the claimants or giving them an opportunity to be heard shall decide the dispute and make an award and shall give immediate notice of the award to the person or persons interested.

(2) Any person interested who has not accepted the award made under sub-section (1) may bring a suit in a Civil Court of competent jurisdiction for the determination of the dispute:

Provided that no such suit shall be entertained unless it is instituted—

- (a) if the person instituting it was present or represented before the District Magistrate at the time when he made his award, within six weeks from the date of District Magistrate's award;
- (b) in other cases, within six weeks of the service of notice by the District Magistrate under sub-section (1) or within three months from the District Magistrate's award, whichever period shall later expire.

(3) Any person who has instituted a suit in the Civil Court under sub-section (2) shall produce evidence before the District Magistrate that he has instituted such a suit in the Civil Court within two weeks from the date of expiry of the period referred to in the proviso to sub-section (2), failing which the District Magistrate shall disburse the compensation according to the award made by him under sub-section (1).

Payment of
compensa-
tion.

7B. When the compensation has been assessed under section 7, the District Magistrate shall tender payment of such compensation to the persons entitled thereto:

¹ Sections 7A and 7B were inserted by section 7 of the East Bengal (Emergency) Requisition of Property (Amendment) Act, 1954 (East Bengal Act III 1954).

(Sections 7C—7E.)

Provided that when there is any dispute under sub-section (1) of section 7A as to the apportionment of compensation or any part thereof or as to the person to whom the same or any part thereof is payable, or when any suit has been brought under sub-section (2) of the said section and evidence of such suit has been produced before the District Magistrate under sub-section (3) of that section, such payment shall not be made by the District Magistrate until an award has been made by him under sub-section (1) of that section or until the final determination of the suit, as the case may be.]

¹7C. (1) If any requisitioned property is allotted to and placed in possession of any person, it shall be lawful, and shall be deemed always to have been lawful, for the Provincial Government to recover from such person ²[such portion of the costs of litigation and repair incurred by it in respect of such requisitioned property as it may deem fit and] a sum equivalent to the compensation payable by it under this Act in respect of such property for the period of such allotment and possession ; and the recovery as aforesaid shall be made in such instalments and by such dates as the authority making the allotment may fix from time to time.

Recovery of money from allottee of requisitioned property.

(2) Any sum due from an allottee under sub-section (1), if not paid within the date fixed, as also the sum which, prior to the coming into force of this section, became due from an allottee for the use and occupation of any requisitioned property and is outstanding, shall be recoverable as a public demand.

³7D. When a requisitioned property acquired under section 5 is transferred or proposed to be transferred to a company within the meaning of the Companies Act, 1913, such company shall enter into an agreement with the Provincial Government in such form as may be prescribed by the Provincial Government and such agreement shall be published in the *Official Gazette*.

Transfer of acquired property to a company.

7E. When any payment has been made in advance towards compensation to the owner of any requisitioned property with a view to acquire it and it is found, at the

Recovery of compensation paid in advance.

¹This section originally numbered as section 7A and re-numbered as 7C by section 7 of the East Bengal (Emergency) Requisition of Property (Amendment) Act, 1954 (East Bengal Act III of 1954), was inserted by section 5 of the East Bengal (Emergency) Requisition of Property (Amendment) Act, 1952 (East Bengal Act III of 1952).

²These words were inserted by section 5 of the East Bengal (Emergency) Requisition of Property (Second Amendment) Act, 1957 (East Pakistan Act XXXII of 1957).

³These new sections were inserted by section 6 of the East Bengal (Emergency) Requisition of Property (Second Amendment) Act, 1957 (East Pakistan Act XXXII of 1957).

(Section 7F, 8.)

time of preparation of the final award, that an amount in excess of the compensation payable to the owner of such requisitioned property has been made, such excess amount whether paid before or after coming into force of this section shall be recoverable from such owner as a public demand.

Payment of compensation to the heirs of a deceased owner.

7F. When a person entitled to receive compensation for requisition or acquisition of any property under this Act dies and the amount of compensation payable in respect of such property does not exceed five hundred rupees, the compensation may be paid to any person claiming it, who appears to the Provincial Government to be entitled to receive such compensation, without requiring production of any Probate, Letters of Administration or Succession Certificate and such payment shall be a full discharge to the Provincial Government from all liability in respect of compensation, but nothing in this section shall affect the claim of any executor or administrator or other representative or any creditor of the deceased against the person to whom the payment has been made.]

Release from requisition.

8. (1) Where any requisitioned property is to be released from requisition, the Provincial Government may restore it to the persons from whom the property was requisitioned or to his successor-in-interest or to such other person as may appear to the Provincial Government to be entitled to such restoration.

(2) The delivery of possession of the requisitioned property to the person referred to in sub-section (1) shall be a full discharge of the Provincial Government from all liability in respect of such delivery, but shall not prejudice any rights in respect of the property which any other person may be entitled by due process of law to enforce against the person to whom possession of the property is so delivered:

¹[Provided that when the person, to whom the requisitioned property is to be restored on release from requisition, wilfully neglects or refuses to take delivery of the requisitioned property on being directed in writing to take possession of such requisitioned property by the Provincial Government, such requisition property shall be deemed and shall always be deemed to have been restored to such person within the meaning of this sub-section with effect from the date and time specified in the aforesaid direction.]

(3) Where the person to whom possession of any requisitioned property is to be given cannot be found and has no agent or other person empowered to accept delivery

¹The proviso was added, after substituting a colon for the full stop at the end of sub-section (2) of section 8, by the East Bengal (Emergency) Requisition of Property (Amendment) Act, 1957 (East Pakistan Act VII of 1957), section 2.

(Section 8A.)

on his behalf the Provincial Government shall cause a notice declaring that the property is released from requisition to be affixed on some conspicuous part of the property and published in the *Official Gazette*.

(4) When a notice referred to in sub-section (3) is published in the *Official Gazette*, the property specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof; and the Provincial Government shall not be liable for any compensation or other claim in respect of the property for any period after the said date.

E. B. Act XVI of 1953. ¹[8A. (1) When an immovable requisitioned property, situated in any area to which the ²[East Bengal Premises Rent Control Act, 1953], or any other similar law for the time being in force, applies, which has been allotted to and placed in possession of any person for commercial or industrial purposes, is to be released from requisition, the actual possession of it, notwithstanding the provision of sub-section (1) of section 8, shall not be liable to be restored to any one, but such property may, subject to the provisions of sub-section (4) of that section, be released from requisition only in the manner laid down in sub-section (3) thereof.

Certain allottees to become tenants on de-requisition.

(2) Notwithstanding anything contained in any other law for the time being in force, when a requisitioned property as aforesaid is released from requisition under sub-section (1), the allottee in possession of such property shall, on and from the date of its release from requisition, be deemed to be a tenant from month to month under the person or persons who, but for the provision of sub-section (1), would have been entitled to restoration of actual possession thereof under sub-section (1) of section 8, at a rental equivalent to the amount of monthly compensation which, prior to the release of that property, was payable by him for it or, if that rent be not acceptable to either party to the aforesaid tenancy, at such standard rent as may be admissible or fixed under the provisions of the ²[East Bengal Premises Rent Control Act, 1953], or any other similar law for the time being in force.

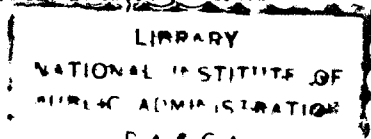
E. B. Act XVI of 1953.

(3) The authority releasing such property from requisition shall inform, in the manner prescribed by rules, the fact of release thereof, to the person or persons referred to in sub-section (2).

E. B. Act XVI of 1953. (4) The ²[East Bengal Premises Rent Control Act, 1953], or any other similar law for the time being in force,

¹This section was inserted by section 6 of the East Bengal (Emergency) Requisition of Property (Amendment) Act, 1952 (East Bengal Act III of 1952).

²The words, comma and figures within square brackets were substituted for the words, comma and figures "East Bengal Premises Rent Control Ordinance, 1951" by E. P. Ord. XXVIII of 1960 First schedule.



(Sections 8B—11.)

so far as it is applicable, shall apply to the tenancy referred to in sub-section (2).]

Withdrawal from acquisition.

¹[8B. When the owner of any property which has been acquired under section 5 is willing to receive back the property, the Provincial Government may, at any time before the payment of compensation, withdraw from the acquisition of any such property by notification published in the *Official Gazette*, and on such withdrawal, the property shall be restored to the possession of the owner, and with effect from the date of such restoration, the property shall vest back in the owner in the rights which he had before such property was acquired.]

Powers to enter on land and into premises to collect information.

9. With a view to requisitioning or acquiring any property, or determining the compensation payable under this Act, the Provincial Government may—

- (a) authorise any person to enter upon any land or into any premises and inspect such land or premises and any property thereon or therein, and
- (b) by written order require any person to furnish to such authority such information in his possession relating to the property as may be specified in the order:

Provided that no premises shall be entered, without the consent of the occupier, unless at least twenty-four* hours' previous notice in writing has been given.

Penalty.

10. Any person who contravenes or attempts to contravene or abets, or attempts to abet a contravention of any order, made under this Act, or who wilfully obstruct any person in doing any of the acts authorised or permitted under this Act or any rule made thereunder shall be punishable with imprisonment for a term which may extend to six months or with fine not exceeding five hundred rupees or with both.

Offences by Corporation.

11. If the person contravening any order, made under this Act, is a company or other body corporate, every director, manager, secretary or other officer or agent thereof shall, unless he proves that the contravention took place without his knowledge or that he exercised due diligence to prevent such contravention, be deemed to be guilty of such contravention.

*This new section was inserted by section 7 of the East Bengal (Emergency) Requisition of Property (Second Amendment) Act, 1957 (East Pakistan Act XXXII of 1957).

(Sections 12—12C.)

12. If any officer of the Provincial Government, duly empowered in this behalf, is opposed or impeded in taking possession under this Act of any property, he shall, if a Magistrate, enforce the surrender of the property to himself, and if not a Magistrate, he shall apply to a Magistrate and such Magistrate shall enforce the surrender of the property to him. Enforcement of surrender.

¹[12A. Notwithstanding anything contained in any other law for the time being in force, if any immovable property under requisition, which has been allotted to any person ²[or is in unauthorised occupation of any person], is required by the Provincial Government for any other use or purpose during the period of requisition or for restoring the property under section 8 on its release from requisition, the Provincial Government may, at any time by a written order, direct such person to vacate the property by such date as may be specified in such order; and if such person does not vacate the property by the date so specified, the Provincial Government may evict such person from such property and may use or cause to be used such force for the purpose as may be necessary: Eviction of allottees.

Provided that no person shall be so evicted between sunset and sunrise.

12B. Notwithstanding anything contained in any other law for the time being in force, if a person, to whom any requisitioned premises have been allotted for residential purposes, erects a house for such purposes or purchases a house for such purposes and secures vacant possession thereof, such person shall be evicted from the requisitioned premises under the provisions of section 12A if he does not voluntarily vacate the said premises as soon as the erection of the house has been completed or as soon as the house purchased by him is available for his occupation.] Eviction when allottee erects or purchases house for residence.

³[12C. (1) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 5, by the officer therein mentioned, and, in the case of any other notice, by or by order of the District Magistrate. Service of notice.

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

¹These sections were inserted by section 7 of the East Bengal (Emergency) Requisition of Property (Amendment) Act, 1952 (East Bengal Act III of 1952).

²These words were inserted by section 8 of the East Bengal (Emergency) Requisition of Property (Amendment) Act, 1954 (East Bengal Act III of 1954).

³This section was inserted by section 9 of the East Bengal (Emergency) Requisition of Property (Amendment) Act, 1954 (East Bengal Act III of 1954).

(Sections 13—17.)

(3) When such person cannot be found, the service may be made on any adult male member of his family residing with him ; and if no such adult male member can be found, the notice may be served by affixing the copy on the outer door of the house in Pakistan in which the person therein named ordinarily dwells or carries on business or is known to have last resided or carried on business and by affixing a copy thereof in some conspicuous place in the office of the officer authorised under section 5 or of the District Magistrate or in the Court House and also in some conspicuous part of the property to be requisitioned or acquired :

Provided that, if the District Magistrate or the officer authorised under section 5 shall so direct, a notice may be sent by registered post in a letter addressed to the person named therein at his last known residence, address or place of business in Pakistan].

Offence under the Act is cognizable.

13. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence under section 10 (f) of sub-section (1) of section 4 of the Code.

Act V of 1898.

Protection of action taken under the Act.

14. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order or rule made thereunder.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any order or rule made thereunder.

Delegation of functions.

15. The Provincial Government may, by order notified in the *Official Gazette*, direct that any power conferred or any duty imposed on it by this Act shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by such officer as may be so specified.

Saving.

16. On the expiry of this Act, the provisions of section 8 of the Bengal General Clauses Act, 1899, shall apply as if this Act has been repealed by an Act of the Legislature.

Ben
Vol

Continuance of action, appointment, proceedings, etc.

17. (1) Anything done or any action taken or any appointment made or any proceedings commenced in exercise of any power conferred by or under the East Bengal Requisition of Property Ordinance, 1947, shall be deemed to have been done, taken, made or commenced under this Act as if this Act was already in force when such thing was done or such action was taken or such appointment was made or such proceedings commenced.

Ben
Vol

(Section 18.)

(2) The expiry of the said Ordinance shall not affect any right, privilege, obligation or liability acquired, accrued or incurred thereunder.

18. (1) The Provincial Government may make rules and may from time to time alter and add to the rules so made for carrying out the purposes of this Act. Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) procedure in making an order for requisition of property under section 3 ;
- (b) exemption of any property or class of properties or exclusion of any particular area from the operation of this Act;
- (c) the form of the order of requisition referred to in sub-section (1) of section 4 ;
- (d) the form of the notice of acquisition referred to in sub-section (1) of section 5 ;
- (e) manner and principle of assessment and payment of compensation in respect of properties requisitioned or acquired, mentioned in section 6 and clause (a) of section 7 ;
- (f) the procedure to be followed in arbitration under section 7 ;
- (g) the principles to be followed in apportioning the costs of proceedings before the arbitrator and on appeal under section 7 ;
- (h) the maximum amount of an award against which no appeal shall lie under clause (f) of section 7 ;
- (i) the form of the notice of release referred to in sub-section (3) of section 8 and procedure for release ;
- (j) the procedure to be followed in making entry on a property referred to in clause (a) of section 9 ;
- (k) manner of collection of information referred to in clause (b) of section 9 ;
- (l) manner of enforcement of surrender referred to in section 12 ;
- (m) various forms and registers considered necessary for the guidance of officers in all matters connected with the enforcement of the law.

East Bengal Act XIV of 1948.

THE CRIMINAL LAW (EAST BENGAL AMENDMENT) ACT, 1948¹.

[2nd September, 1948.]

An Act to provide for preventing the disposal or concealment of money or other property procured by means of certain offences committed in ²[East Pakistan].

WHEREAS it is expedient to provide for preventing the disposal or concealment of money or other property procured by means of certain offences committed in ²[East Pakistan];

It is hereby enacted as follows :—

1. (1) This Act may be called the Criminal Law (East Bengal Amendment) Act, 1948. Short title and extent.

(2) It extends to the whole of ³[East Pakistan].

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

“scheduled offence” means an offence specified in the Schedule to this Act.

3. For the purposes of this Act the date of the termination of criminal proceedings shall be deemed to be— Interpretation.

(a) where such proceedings are taken to the High Court, whether in appeal or on revision, the date on which the High Court passes its final orders in such appeal or revision, or

(b) where such proceedings are not taken to the High Court, the day immediately following the expiry of sixty days from the date of the last judgment or order of a criminal court in the proceedings.

4. (1) Where the Provincial Government has reason to believe that any person has committed (whether after or before the commencement of this Act) any scheduled offence, the Provincial Government may, whether or not any Court has taken cognizance of the offence, authorise the making Application for attachment of property.

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 7th April, 1948, Pt. IVA, p. 6; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 7th and 8th June, 1948.

²The words within square brackets were substituted for the words “East Bengal” by E. P. Ord. XXVIII of 1960, First Schedule.

³The words within square brackets were substituted for the words “East Bengal including the district of Sylhet”, *ibid*.

(Section 5.)

of an application to the District Judge within the local limits of whose jurisdiction the said person ordinarily resides or carries on his business, for the attachment under this Act of the money or other property which the Provincial Government believes the said person to have procured by means of the offence, or if such money or other property cannot for any reason be attached, of other property of the said person of value as nearly as may be equivalent to that of the aforesaid money or other property.

(2) The provisions of Order XXVII of the First Schedule to the Code of Civil Procedure, 1908, shall apply to proceedings for an order of attachment under this Act as they apply to suits by the Provincial Government.

(3) An application under sub-section (1) shall be accompanied by one or more affidavits stating the grounds on which the belief that the said person has committed any scheduled offence is founded, and the amount of money or the value of other property believed to have been procured by means of the offence. The application shall also furnish—

- (a) any information available as to the location for the time being of any such money or other property, and shall, if necessary, give particulars, including the estimated value, of other property of the said person; and
- (b) the names and addresses of any other persons believed to have, or to be likely to claim, any interest or title in the property of the said person.

Ad interim
attachment.

5. (1) Upon receipt of an application under section 4, the District Judge shall, unless for reasons to be recorded in writing he is of opinion that there exist no *prima facie* grounds for believing that the person in respect of whom the application is made has committed any scheduled offence or that he has procured thereby any money or other property pass without delay an *ad interim* order attaching the money or other property alleged to have been so procured, or if it transpires that such money or other property is not available for attachment, such other property of the said person of equivalent value as the District Judge may think fit :

Provided that the District Judge may if he thinks fit before passing such order, and shall before refusing to pass such order, examine the person or persons making the affidavits accompanying the application.

(2) At the same time as he passes an order under sub-section (1), the District Judge shall issue to the person whose money or other property is being attached a notice, accompanied by copies of the order, the application and affidavits

(Section 6.)

and of the evidence, if any, recorded, calling upon him to show cause on a date to be specified in the notice why the order of attachment should not be made absolute.

(3) The District Judge shall also issue notices, accompanied by copies of the documents accompanying the notice under sub-section (2), to all persons represented to him as having, or being likely to claim, any interest or title in the property of the person to whom notice is issued under the said sub-section, calling upon each such person to appear on the same date as that specified in the notice under the said sub-section and make objection if he so desires to the attachment of the property or any portion thereof on the ground that he has an interest in such property or portion thereof.

(4) Any other person claiming an interest in the attached property or any portion thereof may, notwithstanding that no notice has been served upon him under this section, make an objection as aforesaid to the District Judge at any time before an order is passed under sub-section (1) or sub-section (3), as the case may be, of section 6.

6. (1) If no cause is shown and no objections are made under section 5 on or before the specified date, the District Judge shall forthwith pass an order making the *ad interim* order of attachment absolute. Investigation of objections to attachment.

(2) If cause is shown or any objections are made as aforesaid, the District Judge shall proceed to investigate the same, and in so doing, as regards the examination of the parties and in all other respects he shall, subject to the provisions of this Act, follow the procedure and exercise all the powers of a Court in hearing a suit under the Code of Civil Procedure, 1908; and any person making an objection under section 5 shall be required to adduce evidence to show that at the date of the attachment he had some interest in the property attached.

V of 1908.

(3) After investigation under sub-section (2), the District Judge shall pass an order either making the *ad interim* order of attachment absolute or varying it by releasing a portion of the property from attachment or withdrawing the order:

Provided that the District Judge shall not—

- (a) release from attachment any interest which he is satisfied that the person believed to have committed a scheduled offence has in the property, unless he is also satisfied that there will remain under attachment an amount of the said person's property of value not less than that of the property

(Sections 7—10.)

believed to have been procured by the said person by means of the offence, or

- (b) withdraw the order of attachment unless he is satisfied that the said person has not by means of the said offence procured any money or other property.

Attachment
of property
of *mala fide*
transferees.

7. (1) Where the assets available for attachment of a person believed to have committed a scheduled offence are found to be less than the amount or value which he is believed to have procured by means of such offence, and where the District Judge is satisfied, by affidavit or otherwise, that there is reasonable cause for believing that the said person has, after the date on which the offence is alleged to have been committed, transferred (whether after the commencement of this Act or not) any of his property otherwise than in good faith and for consideration, the District Judge may by notice require any transferee of such property (whether or not he received the property directly from the said person) to appear on a date to be specified in the notice and show cause why so much of the transferee's property as is equivalent to the proper value of the property transferred should not be attached.

(2) Where the said transferee does not appear and show cause on the specified date, or where after investigation in the manner provided in sub-section (2) of section 6, the District Judge is satisfied that the transfer of the property to the said transferee was not in good faith and for consideration, the District Judge shall order the attachment of so much of the said transferee's property as is in the opinion of the District Judge equivalent to the proper value of the property transferred.

Execution of
orders of
attachment.

8. An order of attachment of property under this Act shall be carried into effect in the manner provided in the Code of Civil Procedure, 1908, for the attachment of property in execution of a decree so far it is not in consistent with the provisions of this Act.

V of 1908

Security in
lieu of
attachment.

9. Any person whose property has been or is about to be attached under this Act may at any time apply to the District Judge to be permitted to give security in lieu of such attachment, and where the security offered and given is in the opinion of the District Judge satisfactory and sufficient, he may withdraw or, as the case may be, refrain from passing the order of attachment.

Administra-
tion of
attached
property.

10. (1) The District Judge may, on the application of any person interested in any property attached under this Act and after giving the agent of the Provincial Government

(Sections 11, 12.)

an opportunity of being heard, make such orders, as the District Judge considers just and reasonable for—

- (a) providing from such of the attached property as the applicant claims an interest in, such sums as may be reasonably necessary for the maintenance of the applicant and of his family, and for the expenses connected with the defence of the applicant where criminal proceedings have been instituted against him in any Court for a scheduled offence;
- (b) safeguarding so far as may be practicable the interests of any business affected by the attachment, and in particular, the interests of any partners in such business.

(2) Where it appears to the District Judge to be just and convenient, he may by order appoint a Receiver to manage any property attached under this Act in accordance with such instructions as the District Judge may from time to time think fit to give; and where a Receiver is so appointed, the provisions of rules 2, 3, 4 and 5 of Order XL of the First Schedule to the Code of Civil Procedure, 1908, shall be applicable.

11. An order of attachment of property under this Act shall, unless it is withdrawn earlier in accordance with the provisions of this Act, continue in force— Duration of attachment.

- (a) where no Court has taken cognizance of the alleged scheduled offence at the time when the order is applied for, for three months from the date of the order under sub-section (1) of section 5 or sub-section (2) of section 7, as the case may be, unless cognizance of such offence is in the meantime so taken, or unless the District Judge on application by the agent of the Provincial Government thinks it proper and just that the period should be extended and passes an order accordingly ; or
- (b) where a Court has taken cognizance of the alleged scheduled offence whether before or after the time when the order was applied for until orders are passed by the District Judge in accordance with the provisions of this Act after the termination of the criminal proceedings.

12. (1) The Provincial Government or any person who has shown cause under section 5 or section 7 or has made an objection under section 5 or has made an application under section 9 or section 10, if aggrieved by any order of the Appeals.

(Sections 13, 14.)

District Judge under any of the foregoing provisions of this Act, may appeal to the High Court within thirty days from the date on which the order complained against was passed.

(2) Upon any appeal under this section the High Court may after giving such parties as it thinks proper an opportunity of being heard, pass such orders as it thinks fit.

(3) Until an appeal under this section is finally disposed of by the High Court, no Court, shall, otherwise than in accordance with the provisions of section 9 or section 14 order the withdrawal or suspension of any order of attachment to which the appeal relates.

Criminal Courts to evaluate property procured by scheduled offences..

13. (1) Where before judgment is pronounced in any criminal trial for a scheduled offence, it is represented to the Court that an order of attachment of property has been passed under this Act in connection with such offence, the Court shall, if it is convicting the accused, record a finding as to the amount of money or value of other property procured by the accused by means of the offence.

(2) In any appeal or revisional proceedings against such conviction, the appellate or revisional Court shall, unless it sets aside the conviction, either confirm such finding or modify it in such manner as it thinks proper.

(3) In any appeal or revisional proceedings against an order of acquittal passed in a trial such as is referred to in sub-section (1), the appellate or revisional Court, if it convicts the accused, shall record a finding such as is referred to in that sub-section.

**Disposal of
attached
property
upon termi-
nation of
criminal
proceedings.**

14. (1) Upon the termination of any criminal proceedings for any scheduled offence in respect of which any order of attachment of property has been made under this Act or security given in lieu thereof, the agent of the Provincial Government shall without delay inform the District Judge, and shall, where criminal proceedings have been taken in any Court, furnish the District Judge with a copy of the judgment or order of the trying Court and with copies of the judgments or orders, if any, of the appellate or revisional Courts thereon.

(2) Where it is reported to the District Judge under subsection (1) that cognizance of the alleged scheduled offence has not been taken or where the final judgment or order of the Criminal Courts is one of acquittal, the District Judge shall forthwith withdraw any orders of attachment of property made in connection with the offence, or where security has been given in lieu of such attachment, order such security to be returned.

(Sections 14, 15.)

(3) Where the final judgment or order of the Criminal Courts is one of conviction, the District Judge shall order that from the property of the convicted person attached under this Act or out of the security given in lieu of such attachment, there shall be forfeited to the Provincial Government such amount or value as is found in the final judgment or order of the Criminal Courts in pursuance of section 13 to have been procured by the convicted person by means of the offence, together with the costs of attachment as determined by the District Judge; and where the final judgment or order of the Criminal Courts has imposed or upheld a sentence or fine on the said person (whether alone or in conjunction with any other punishment), the District Judge may order, without prejudice to any other mode of recovery, that the said fine shall be recovered from the residue of the said attached property or of the security given in lieu of attachment.

(4) Where the amounts ordered to be forfeited or recovered under sub-section (3) exceed the value of the property of the convicted person attached, and where the property of any transferee of the convicted person has been attached under section 7, the District Judge shall order that the balance of the amount ordered to be forfeited under sub-section (3) together with the cost of attachment of the transferee's property as determined by the District Judge shall be forfeited to the Provincial Government from the attached property of the transferee or out of the security given in lieu of such attachment; and the District Judge may order, without prejudice to any other mode of recovery, that any fine referred to in sub-section (3) or any portion thereof not recovered under that sub-section shall be recovered from the attached property of the transferee or out of the security given in lieu of such attachment.

(5) If any property remains under attachment in respect of any scheduled offence or any security given in lieu of such attachment remains with the District Judge after his orders under sub-sections (3) and (4) have been carried into effect, the order of attachment in respect of such property remaining shall be forthwith withdrawn, or as the case may be, the remainder of security returned, under the orders of the District Judge.

15. Save as provided in section 12 and notwithstanding anything contained in any other law,—

Bar to other proceedings.

(a) no suit or other legal proceedings shall be maintainable in any Court—

(i) in respect of any property ordered to be forfeited under section 14 or which has been taken in

(Section 16 and the Schedule.)

recovery of fine in pursuance of an order under that section, or

(ii) while any other property is attached under this Act, in respect of such other property,—

by any person upon whom a notice has been served under section 5 or section 7 or who has made an objection under sub-section (4) of section 5; and

(b) no Court shall, in any legal proceedings or otherwise, pass any decree or order other than a final decree in a suit by a person not being a person referred to in clause (a), which shall have the effect of nullifying or affecting in any way any subsisting order of attachment of property under this Act, or the right of the District Judge to hold security in lieu of any such order of attachment.

Indemnity. 16. No suit, prosecution or other legal proceedings shall lie against any person for anything in good faith done or intended to be done in pursuance of this Act.

THE SCHEDULE.

(See section 2.)

Offences in connection with which property is liable to be attached.

1. An offence punishable under section 161 or section 165 of the ¹[Pakistan Penal Code].

2. An offence punishable under section 406 or section 409 of the 1[Pakistan Penal Code], where the property in respect of which the offence is committed is property entrusted by 2* * * * *

the Central or a Provincial Government or a department of any such Government or a local authority or a person acting on behalf of any such Government or department or authority.

¹The words within square brackets were substituted for the words "Indian Penal Code" by E. P. Ord. XXVIII of 1960, First Schedule.

²The words "His Majesty's Government in the United Kingdom or in any part of His Majesty's Dominions or" were omitted, *ibid.*

(The Schedule.)

3. An offence punishable under section 411 or section 414 of the ¹[Pakistan Penal Code], where the stolen property in respect of which the offence is committed is property such as is described in the preceding item and in respect of which an offence punishable under section 406 or section 409 of the said Code has been committed.

4. An offence punishable under section 417 or section 420 of the ¹[Pakistan Penal Code], where the person deceived
is ²* * * *

the Central or a Provincial Government or a department of any such Government or a local authority or a person acting on behalf of any such Government or department or authority.

5. An offence punishable under section 5 of the of 1947, Prevention of Corruption Act, 1947.

6. Any conspiracy to commit or any attempt to commit or any abetment of any of the aforesaid offences.

¹The words within square brackets were substituted for the words "Indian Penal Code" by E. P. Ord. XXVIII of 1960, First Schedule.

²The words "His Majesty's Government in the United Kingdom or in any part of His Majesty's Dominions or" were omitted, *ibid*.

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East Bengal Act IV of 1949.

THE BENGAL AGRICULTURAL DEBTORS (EXTENSION TO SYLHET) ACT, 1949¹.

[21st June, 1949.]

An Act to make better provision for the relief of the indebtedness of agricultural debtors in the district of Sylhet and to amend the Bengal Agricultural Debtors Act, 1935.

WHEREAS it is expedient to make better provision for the relief of indebtedness of agricultural debtors in the district of Sylhet and to amend the Bengal Agricultural Debtors Act, 1935 (hereinafter referred to as the said Act), in its application to the district of Sylhet in the manner hereinafter appearing;

It is hereby enacted as follows:—

1. (1) This Act may be called the Bengal Agricultural Debtors (Extension to Sylhet) Act, 1949.

Short title and commencement.

(2) It extends to the district of Sylhet.

(3) It shall come into force on the date of its publication in the *Official Gazette*.

2. (1) Notwithstanding anything contained in any other law for the time being in force, the Bengal Agricultural Debtors Act, 1935, as amended from time to time, shall apply to the district of Sylhet.

Application of Ben. Act VII of 1936 in the district of Sylhet.

(2) For the avoidance of doubt it is hereby declared that the Assam Debt Conciliation Act, 1936, is hereby repealed in so far as it applies to the district of Sylhet.

Repeal of Assam Act X of 1936.

3. The Board established under sub-section (1) of section 3 of the said Act shall have power to deal with the application made under sub-section (1) of section 4 of the Assam Debt Conciliation Act, 1936, and such applications shall be deemed to have been transferred to the Board within the meaning of section 39 of the said Act.

Saving.

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 7th March, 1949, Part IVA, p. 168; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 2nd and 9th April, 1949.

East Bengal Act X of 1949.

THE BENGAL AMUSEMENTS TAX (EXTENSION AND AMENDMENT) ACT, 1949¹.

[6th August, 1949.]

An Act to extend to the district of Sylhet and to further amend the Bengal Amusements Tax Act, 1922.

Ben. Act
V of 1922. WHEREAS it is expedient to extend to the district of Sylhet and to further amend the Bengal Amusements Tax Act, 1922, for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. (1) This Act may be called the Bengal Amusements Tax (Extension and Amendment) Act, 1949. Short title, commencement and extent.

(2) It shall come into force on the date of its publication in the *Official Gazette*.

(3) It extends to the whole of ²[East Pakistan].

Ben. Act
V of 1922. 2. (1) Notwithstanding anything contained in any other law for the time being in force, the Bengal Amusements Tax Act, 1922, as amended from time to time, shall apply to the district of Sylhet. Application of Ben. Act V of 1922 in the district of Sylhet.

Assam
Act VI
of 1939. (2) The Assam Amusements and Betting Tax Act, 1939, is hereby repealed. Repeal of Assam Act VI of 1939.

3. [Omitted by the East Pakistan Repealing and Amending Ordinance, 1960 (E. P. Ord. XXVIII of 1960), First Schedule.].

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 24th March, 1949, Pt. IVA, p. 236; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 2nd and 9th April, 1949.

²The words within square brackets were substituted for the words "East Bengal" by E. P. Ord. XXVIII of 1960, First Schedule.

East Bengal Act XI of 1949.

THE BENGAL ELECTRICITY DUTY (EXTENSION TO
SYLHET) ACT, 1949¹.

[6th August, 1949.]

*An Act to extend the provisions of the Bengal Electricity
Duty Act, 1935, to the district of Sylhet.*

Ben. Act
X of
1935. WHEREAS it is expedient to extend the provisions of the
Bengal Electricity Duty Act, 1935, as amended from time
to time, to the district of Sylhet;

It is hereby enacted as follows:—

1. (1) This Act may be called the Bengal Electricity Short title
Duty (Extension to Sylhet) Act, 1949. and com-
mencement,

(2) It shall come into force on the date of its publica-
tion in the *Official Gazette*.

Ben. Act
X of
1935. 2. Notwithstanding anything contained in any other Application
law for the time being in force, the Bengal Electricity of Ben. Act
Duty Act, 1935, as amended from time to time, shall X of 1935
apply to the district of Sylhet. in the dis-
trict of
Sylhet.

¹For Statement of Objects and Reasons, see *Dacca Gazette*,
Extraordinary, dated the 24th March, 1949, Pt. IVA, p. 242; for
proceedings in the Assembly, see the proceedings of the meetings of the
East Bengal Legislative Assembly held on the 2nd and 9th April, 1949.

East Bengal Act XII of 1949.

THE STAMP DUTY (EXTENSION TO SYLHET) ACT,
1949¹.

[6th August, 1949.]

An Act to extend the provisions of the ²[Stamp Act], 1899, as amended by Bengal Acts from time to time, to the district of Sylhet.

II of 1899. WHEREAS it is expedient to extend the provisions of the ²[Stamp Act], 1899, as amended by Bengal Acts from time to time, to the district of Sylhet;

It is hereby enacted as follows:—

1. (1) This Act may be called the Stamp Duty (Extension to Sylhet) Act, 1949. Short title and commencement.

(2) It shall come into force on the date of its publication in the *Official Gazette*.

II of 1899. 2. Notwithstanding anything contained in any other law for the time being in force, the ²[Stamp Act], 1899, as amended by Bengal Acts from time to time, and all the rules framed thereunder, shall apply to the district of Sylhet. Applicability of Act II of 1899, as amended by Ben. Acts to the district of Sylhet.

II of 1899. 3. All proceedings commenced under the ²[Stamp Act], 1899, as applied to Assam and the rules made thereunder shall be continued and be deemed to have been commenced under the corresponding provisions of the ²[Stamp Act], 1899, as amended by Bengal Acts from time to time, and the rules made thereunder and any appointment made under the former Act and the rules made thereunder shall for the purposes of the said proceedings, be deemed to have been made under the latter Act and the rules made thereunder as if the latter Act and the rules made thereunder were in operation when the said proceedings were commenced or such appointment was made. Continuance of proceedings commenced under the Stamp Act, 1899, as applied to Assam and the rules made thereunder.

¹For Statement of Objects and Reasons, see *Dacca Gazette*, Extraordinary, dated the 24th March, 1949, Pt. IVA, p. 248; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 2nd and 9th April, 1949.

²The words within square brackets were substituted for the words "Indian Stamp Act" by E.P. Ord. XXVIII of 1960, First Schedule.

East Bengal Act XIV of 1949.

**THE BENGAL MEDICAL (EAST BENGAL
AMENDMENT) ACT, 1949¹.**

[6th August, 1949.]

An Act to amend the Bengal Medical Act, 1914.

Ben. Act
VI of
1914.

WHEREAS it is expedient to amend the Bengal Medical Act, 1914 (hereinafter referred to as the said Act), in the manner hereinafter appearing;

Ben. Act
VI of
1914.

It is hereby enacted as follows:—

Short title and extent. 1. (1) This Act may be called the Bengal Medical (East Bengal Amendment) Act, 1949.

(2) It extends to the whole of ²[East Pakistan]:

Provided that the Provincial Government may, by notification, direct that this Act or any specified portion thereof shall not apply to any such area as may be specified in such notification.

2 to 6. [Repealed by the East Pakistan Repealing and Amending Ordinance, 1960 (E. P. Ord. XXVIII of 1960), Second Schedule].

Repeal of Assam Act I of 1916. 7. The Assam Medical Act, 1916, is hereby repealed in so far as it applies to the district of Sylhet.

Assam
Act I
of 1916.

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 11th February 1949, Part IV A, p. 126; for Proceedings in the Assembly, see the Proceedings of the meetings of the East Bengal Legislative Assembly held on the 2nd and 9th April, 1949.

²The words within square brackets were substituted for the words "East Bengal" by East Pakistan Ordinance XXVIII of 1960, First Schedule.

East Bengal Act XV of 1949.

THE EAST BENGAL COURT-FEES (EXTENSION TO SYLHET) ACT, 1949¹.

[6th August, 1949.]

An Act to extend the operation of the Court-Fees Act, 1870, as amended by Bengal Acts from time to time to the district of Sylhet.

VII of 1870. WHEREAS it is expedient to extend the operation of the Court-Fees Act, 1870, as amended by Bengal Acts from time to time, to the district of Sylhet;

It is hereby enacted as follows:—

1. This Act may be called the East Bengal Court-Fees Short title.
(Extension to Sylhet) Act, 1949.

VII of 1870. 2. Notwithstanding anything contained in any other law for the time being in force, the Court-Fees Act, 1870, as amended by Bengal Acts from time to time, shall apply to the district of Sylhet. Application of the Court-Fees Act, 1870, in the district of Sylhet.

Assam Acts III of 1932 and XVIII of 1947. 3. The East Bengal Court-Fees (Extension to Sylhet) Ordinance, 1948, and the Assam Court-Fees (Amendment) Acts of 1932 and 1947 in their application to the district of Sylhet are hereby repealed. Repeal of East Bengal Ordinance I of 1948.

East Bengal Ordinance No. I of 1948. 4. Anything done or any action taken or any proceedings commenced before the commencement of this Act under the East Bengal Court-Fees (Extension to Sylhet) Ordinance, 1948, shall be deemed to have been done, taken or commenced under this Act, as if this Act was in operation when any such thing was done, action taken or proceedings commenced. Saving and continuance of orders, etc.

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 21st October, 1948, Pt. IVA, p. 2; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 15th March and 2nd April, 1949.

East Bengal Act XVII of 1949.

THE EASTERN FRONTIER RIFLES (BENGAL BATTALION) EAST BENGAL AMENDMENT ACT, 1949¹.

[6th August, 1949.]

Ben. Act II of 1920. *An Act further to amend the Eastern Frontier Rifles (Bengal Battalion) Act, 1920.*

Ben. Act II of 1920. WHEREAS it is expedient to further amend the Eastern Frontier Rifles (Bengal Battalion) Act, 1920, in the manner hereinafter appearing ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Eastern Frontier Rifles (Bengal Battalion) East Bengal Amendment Act, 1949. Short title and extent.

(2) It extends to the whole of ²[East Pakistan].

2 to 4. [Repealed by the East Pakistan Repealing and Amending Ordinance, 1960 (E. P. Ord. XXVIII of 1960), Second Schedule].

Ben. Act II of 1920. 5. Notwithstanding anything contained in any other law for the time being in force, the provisions of the Eastern Frontier Rifles (Bengal Battalion) Act, 1920, as amended from time to time and by this Act, shall apply to ³[the whole of East Pakistan] and all order, and notifications issued, and all appointments and regulations made in exercise of any power conferred by or under the said Act, shall be deemed to have continued in effect and to have been issued or made under this Act as if this Act was already in force when such thing was issued or made. Savings.

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 14th June, 1948. Pt. IVA, page 2; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 15th March and 7th April, 1949.

The Act was extended to the Chittagong Hill-tracts and those areas of the Mymensingh district which were known as "Partially Excluded Areas" immediately before the coming into force of the Constitution which was abrogated by the Presidential Proclamation of the 7th October, 1958, vide notification No. 2308Pl., dated the 9th June, 1951, published in *Dacca Gazette*, dated the 21st June, 1951, Pt. I, p. 688.

²The words within square brackets were substituted for the words "East Bengal" by E. P. Ord. XXVIII of 1960, First Schedule.

³The words within square brackets were substituted for the words "the whole of East Bengal including the district of Sylhet", *ibid.*

East Bengal Act XVIII of 1949.

THE EAST BENGAL JUTE DEALERS REGISTRATION
ACT, 1949¹.

[6th August, 1949.]

An Act to provide for registration of dealers in jute, occupiers of jute godowns, ²[jute mills] and presses, kutcha and pucca, and collection of statistics in respect of jute trade.

WHEREAS it is expedient to provide for registration of dealers in jute, occupiers of jute godowns and presses, *kutcha* and *pucca*, and collection of statistics in respect of jute trade ;

It is hereby enacted as follows:—

1. (1) This Act may be called the East Bengal Jute Dealers Registration Act, 1949.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of ³[East Pakistan].

(3) It shall come into force on the date of its publication in the *Official Gazette*.

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

Definitions.

“(1) “Jute” means the plant known botanically as belonging to the genus *corchorus*, and includes all the species of that genus whether known commonly as *pat*, *kosta*, *nalia* or by any other name and also means the plant known botanically as ⁴[*hibiscus cannabinus*] and commonly as *mesta* ;.

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 1st March, 1949, Part IVA, p. 178; for proceedings in the Assembly, see proceedings of the meetings of the East Bengal Legislative Assembly held on the 2nd April, 1949.

The Act was applied with effect from 1st January, 1950, to the Chittagong Hill-tracts and to those areas of the district of Mymensingh which were known as “partially excluded areas” immediately before the coming into force of the Constitution which was abrogated by the Presidential Proclamation of the 7th October, 1958, vide notification No. 6195Com., dated the 29th December, 1949, published at page 29 of Part I of the *Dacca Gazette* of the 12th January, 1950.

²The words “Jute Mills” and the comma preceding them were inserted by the East Bengal Jute Dealers Registration (Amendment) Act, 1956 (E. P. Act XI of 1956), section 3.

³The words within square brackets were substituted for the words “East Bengal” by E. P. Ord. XXVIII of 1960, First Schedule.

⁴This clause was added by the East Bengal Jute Dealers Registration (Amendment) Act, 1950 (E. B. Act XV of 1950), section 2(1), the original clause (1) being re-numbered as clause (1a).

⁵The words “*hibiscus cannabinus*” were substituted for the words “*hitiscus cannabinus*” by section 3 (i) of E. B. Act XXIV of 1953.

(Section 2.)

- ¹(1a) "raw jute" means the fibre of jute which has not been subjected to any process of spinning or weaving and includes jute cuttings, whether loose or packed in drums or bales;
- (2) "grower of jute" means any person who, either for his own consumption or for sale, and whether by himself or by members of his family or by hired labourers or by *adhiars* or by *bargadars* grows jute in any year on any land in his possession;
- (3) "dealer in jute" means any person who purchases or negotiates for purchase of raw jute ²[for sale or for processing or for spinning or for manufacturing jute goods] and includes all kinds of dealers ³[in such jute] commonly known as *faria*, *bepary*, *paikar*, *aratdar*, *mahajan*, *dalal*, broker, ⁴[commission agent,] *kutchi* baler, *pucca* ⁵[baler, shipper and occupiers of jute mills];
- (4) "shipper of jute" means any dealer in jute who exports raw jute out of the Province of ⁶[East Pakistan] to foreign countries, including ⁷[India];
- ⁷(5) "jute godown" means any building, shed or structure commercially or industrially used for the purpose of stocking raw jute, whether loose or packed in drums or bales and includes what is commonly known as an assorting shed;
- ⁸(5a) "jute mill" means a machine by which jute goods of any description such as twine, sacking, hessian, ropes, gunny cloth and the like can be manufactured;
- (6) "*kutchi* press" means a pressing machine driven by manual labour or by power by which raw jute is packed in bales generally weighing up to 4 maunds each known as "*kutchi* bale" and mainly meant for consumption of the Indian jute mills;

¹The original sub-section (1) was re-numbered as sub-section (1a) by section 2(1) of E. B. Act XV of 1950.

²These words were inserted by E. P. Act XI of 1956, section 4 (1)(a).

³These words were substituted for the words "in jute" by section 2(2) of E. B. Act XV of 1950.

⁴The words and comma "commission agent," were inserted by E. B. Act XXIV of 1953, section 3(ii).

⁵These words and comma were substituted for the words "baler and shippers" by E. P. Act XI of 1956, section 4 (1)(b).

⁶The words within square brackets were substituted for the words "East Bengal" by E. P. Ord. XXVIII of 1960, First Schedule.

⁷The word "India" was substituted for the words "the Indian Dominion" by E. B. Act. XXIV of 1953, section 3(iii).

⁸This new clause was added by E. P. Act XI of 1956, section 4(2).

(Sections 2, 3.)

- (7) “*pucca* press” means a pressing machine driven by power by which raw jute is packed into bales generally weighing 5 maunds or 400 lbs. each and generally meant for shipment overseas ¹[and includes a pressing machine known as semi-*pucca* press];
- (8) “maund” means a weight equivalent to a standard maund of 40 seers, each seer of 80 tolas;
- (9) “occupier of a jute press” means the person who has ultimate control over the affairs of the jute press. Provided that, where the affairs of a jute press are entrusted to a managing agent such agent shall be deemed to be the occupier of the jute press;
- (10) “occupier of a jute godown” means the person who occupies or uses a godown for dealing ²[in raw jute] ³[or for processing or for spinning or for manufacturing jute goods];
- “(10a) “occupier of a jute mill” means the person who has ultimate control over the affairs of the jute mill:
Provided that when the affairs of a jute mill are entrusted to a managing agent such agent shall be deemed to be the occupier of the jute mill.
- (11) “prescribed” means prescribed by rules made under this Act;
- (12) “jute year” means the year from 1st July to 30th June;
- ⁵(13) “licence” means a licence granted or renewed under this Act.

63. (1) No person shall, after the commencement of this Act, carry on business in raw jute in any manner or form ⁷[including processing, spinning or manufacturing jute goods], unless he is registered and licensed under this Act.

Registration
and levy of
fees.

¹These words were inserted by E. B. Act XXIV of 1953, section 3(iv).

²These words were substituted for the words “in jute” by section 2(3) of E. B. Act XV of 1950.

³These words were added by E. P. Act XI of 1956, section 4(3).

⁴This new clause was added by E. P. Act XI of 1956, section 4 (4).

⁵The original clause (13) was omitted and clause (14) was re-numbered as clause (13) by section 3 of E. B. Act XXXII of 1951.

⁶This section was substituted for the original section 3 by section 3 of E. B. Act XV of 1950.

⁷These words and comma were inserted by E. P. Act XI of 1956, section 5(1).

[E. B. Act XVIII

(Section 3.)

(2) All dealers in jute, occupiers of ¹[jute mills and] jute godowns and presses—*kutchra* or *pucca*, carrying on such business at the commencement of this Act shall be so registered and licensed ²[within the period specified in sub-section (8)]:

Provided that it shall not be necessary for any grower of jute to register his name or obtain any licence.

(3) Where a dealer in jute has more than one place of business with an established office, whether in the same district, village or town, or in different districts, villages or towns, his name shall be registered and he shall be granted a separate licence in respect of each such business.

(4) Every licence granted under this Act shall be displayed prominently on the place of business in respect of which it is issued ³[and a licensee who has no such fixed place of business, such as a *faria*, *bepari*, *paikar*, commission agent, *dalal* and the like, shall carry such licence with him wherever he carries on his business and shall produce it on demand by any person authorised under section 5].

(5) Licences granted under this Act shall be personal and non-transferable.

(6) Registration effected and licences granted under this Act shall be valid up to the end of the jute year to which they relate and shall be renewed annually ⁴[within the period specified in sub-section (8)].

(7) There shall be paid to the Provincial Government a prescribed fee for every registration and licence or renewal thereof.

⁵(8) (a) Application for registration and licence or renewal thereof in respect of a particular jute year shall be made, up to the 30th day of September, of that jute year commencing from the 1st day of preceding May, in such manner and to such authority as may be prescribed in this behalf:

¹These words were inserted by E.P. Act XI of 1956, section 5 (2).

²This expression was substituted for the expression "within such period as may be fixed under sub-section (8)" by E. B. Act XXXII of 1951, section 4(1).

³These words, figure and commas were added by E. B. Act XXIV of 1953, section 4(i).

⁴This expression was substituted for the expression "within the period as may be fixed under sub-section (8)" by E. B. Act. XXXII of 1951, section 4(2).

⁵This sub-section was substituted for the original sub-section (8) as amended by E. B. Act XXXII of 1951, section 4(ii), by E. B. Act XXIV of 1953, section 4(3).

(Section 3.)

Provided that the prescribed authority may, on good and sufficient reasons, entertain applications made, after the 30th September, on payment of the prescribed fee *plus* a penalty of an amount equivalent to such fee:

1* * * * *

(b) The prescribed authority shall maintain in the prescribed manner a record of all applications for registration and licence or renewal thereof.

2* * * * *

³(9) If the authority referred to in sub-section (8) is satisfied that the application for registration and licence or for renewal thereof has been made by a citizen of Pakistan and is in order and that prescribed fee therefor has been duly paid, he shall register the name of the applicant and grant him a licence or renew the same and every such licence shall be in the prescribed form and contain the prescribed particulars and shall be subject to the prescribed conditions:

Provided that the Provincial Government may, in its discretion, authorise registration of the name of an applicant who is not a citizen of Pakistan and grant him licence or renew the same when his application is in order and prescribed fee therefor has been duly paid and on such terms and conditions as may be laid down from time to time by the Provincial Government.

(10) In the event of licence being lost or destroyed or defaced beyond legibility, the licensee concerned shall, on payment of the fee as may be prescribed, apply to the authority referred to in sub-section (8) for a duplicate of such licence whereupon such duplicate shall be issued to him by that authority, and the duplicate so issued shall be as good as the original licence.

(11) Subject to such conditions as may be prescribed, a licence, granted or renewed under this section may be suspended or cancelled by such authority as may be prescribed,—

(a) if there is any contravention of any of the provisions of this Act or any breach of the conditions subject to which the licence was granted, or

¹This further proviso inserted by E. P. Act XI of 1956 was repealed by E.P. Ord. XXVIII of 1960.

²Sub-section 8(4) added by section 4(4) of E. B. Act XXXII of 1951 was omitted by section 4(iii) of E. B. Act XXIV of 1953.

³This sub-section was substituted for the original sub-section (9) as amended by E. B. Act XXXII of 1951, section 4(5) and E. B. Act XXIV of 1953, section 4(iv), by E. P. Act IV of 1957, section 2.

[E. B. Act XVIII]

(Sections 4—6.)

- (b) if the holder of the licence has ceased to carry on the business or has sold or otherwise transferred his interest in the business in respect of which the licence was granted.

(12) The holder of a licence shall not be entitled to any compensation for any loss or damage if suffered by him as a result of suspension or cancellation of his licence under sub-section (11).

Licensee to keep books of accounts and submit returns.

4. Except as otherwise provided in the rules made under this Act every licensee shall keep such accounts and submit such returns in such manner ¹[and to such authority] as may be prescribed by the rules.

Power of inspection.

5. Any person authorised by the Provincial Government in this behalf may, for the purpose of this Act,—

- (a) enter upon and inspect any premises in which he has reason to believe that the purchase, sale or storage for sale of jute ²[or the processing, the spinning or the manufacturing of jute goods] is taking place;

- (b) direct any licensee to produce before him ³[the licence,] accounts, vouchers and any other documents relating to stock as may be required by him; and

- (c) inspect the accounts of any licensee;

- ⁴(d) seize, with previous sanction in writing of such authority as may be prescribed by the Provincial Government, licences, vouchers, books of accounts or any other document of a dealer in jute, if he has reasons to believe that a contravention of any of the provisions of the Act or the rules made thereunder has been or is being made by the dealer in jute concerned.

Returns, etc., to be confidential.

6. No person to whom any returns under this Act are submitted or who makes an inspection under section 5 shall, save with the previous sanction of the Provincial Government, disclose any information obtained from any such returns or inspection.

¹These words were inserted by section 4 of E. B. Act XV of 1950.

²These words and comma were inserted by E. P. Act XI of 1956, section 6.

³These words and comma were inserted by E. B. Act XXIV of 1953, section 5 (i).

⁴This new clause was added by section 5(ii), *ibid*.

(Sections 7—11A.)

7. Any person who fails to comply with the provisions of this Act or Rules made thereunder shall, on conviction by a Magistrate, be punishable with a fine which may extend to Rs. 1,000 in default imprisonment of either description which may extend up to six months. On subsequent offence the substantive punishment may extend up to six months' imprisonment of either description. Penalties.

8. No proceedings in respect of any offence under this Act shall be instituted except with the previous sanction of such authority as may be prescribed by the Provincial Government. Institution of proceedings.

9. The authority referred to in section 8, for good and adequate reasons, ¹[may, instead of according sanction for the prosecution of any person accused of an offence punishable under this Act, accept] by way of composition a sum of money not less than double the amount of the annual fee payable and his decision should be in writing and will be deemed as a public document. Power by way of composition.

10. No Civil or Criminal proceedings shall be instituted against any public servant for anything done or intended to be done in good faith under this Act. Indemnity.

²11. (1) Any person aggrieved by any order made under this Act may appeal to the prescribed authority within thirty days from the date of such order. App^a and Revision.

(2) An appeal under sub-section (1) shall be presented in such manner and shall be accompanied by such fee as may be prescribed in this behalf.

(3) The Provincial Government may, at any time, either of its own motion or on application call for and examine the record of any order passed or the proceedings recorded under the foregoing provisions of this Act, for the purpose of satisfying itself as to the legality or propriety of such order or as to the regularity of such proceedings, and may pass such order in reference thereto as it thinks fit.

(4) Nothing in this section shall apply to the orders or proceedings of any Court or Magistrate.

³11A. Any rules made or anything done or any action taken or any proceedings commenced in exercise of any power conferred by or under the East Bengal Jute Dealers Saving.

¹These words and commas were substituted for the words and comma "may accept from any person charged with an offence punishable under this Act" by section 5 of E. B. Act XV of 1950.

²This section was substituted for original section 11 by section 6, *ibid.*

³This section was inserted by section 7 of E. B. Act XV of 1950.

[E. B. Act XVIII of 1949.]
(Section 12.)

Registration Ordinance, 1948, shall be deemed to have been made, done, taken or commenced in exercise of powers conferred by or under this Act as if this Act had commenced on the 30th day of December, 1948.

Rule-making
power.

12. (1) The Provincial Government may, subject to the condition of previous publication make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- ¹(a) the form of application and the amount of fee for registration and licence and renewal thereof, the authority which may effect registrations and grant licences, the manner and form in which such authority shall maintain a record of registrations and licences and renewals, the form of licence the particulars to be contained therein and the conditions subject to which registrations may be effected and licences granted, the amount of fee for a duplicate licence, the conditions subject to which and the authority by which licences—original or renewed—may be suspended or cancelled under section 3;
- (b) the forms in which books of accounts shall be kept under section 4;
- (c) the authority to which returns are to be submitted under section 4, the forms of such returns, the date before which they are to be submitted and particulars other than those specified in this Act, which may be necessary, to be contained in those returns;
- (d) the authority which may ²[accord sanction for prosecution and] accept payment by way of composition for offences under section 7;
- ³[(e) the authority to which an appeal shall lie under sub-section (1) of section 11, the manner of presentation of appeals to such authority and the amount of fee referred to in sub-section (2) of that section; and
- (f) the manner of service of any notice issued under this Act.]

¹This clause was substituted for the original clause (a) by section 8(1) of E. B. Act XV of 1950.

²These words were substituted for the words "under section 9", by section 8(2), *ibid*.

³These clauses were added by section 8(3), *ibid*,

East Bengal Act XX of 1949.

THE EAST BENGAL LAND REVENUE, RENT
AND CESS (APPORTIONMENT) ACT, 1949¹.

[8th August, 1949.]

An Act to apportion and fix the land revenues, rents and cesses in respect of the portions situated within the Province of ²[East P kistan] of certain estates, Putni and other tenures and holdings.

WHEREAS certain estates, tenures and holdings in the Provinces of Bengal, Bihar and Assam as they existed before the date on which the award came into force are comprised of lands situated, after the said date, partly in ³[East Pakistan] and partly in the ⁴[Province of West Bengal or Bihar or Assam in India] ;

AND WHEREAS it is expedient to apportion and fix the land revenues or rents, as the case may be, and the cesses payable in respect of the portions situated in the Province of ²[East Pakistan] of the common estates, tenures or holdings ;

It is hereby enacted as follows:—

1. (1) This Act may be called the East Bengal Land Revenue, Rent and Cess (Apportionment) Act, 1949.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of ²[East Pakistan].

(3) It shall come into force on such date⁵ as the Provincial Government may, by notification in the *Official Gazette*, appoint.

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

Definitions.

(1) "award" means the award of the Boundary Commission referred to in section 3 of the Indian Independence Act, 1947;

10 and 11
Geo. 6, Ch.
30.

(2) "cess" includes the local rate levied under the Assam Local Rates Regulation, 1879;

Assam
Regula-
tion III of
1879.

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 16th February, 1949, Pt. IVA, p. 138; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 15th March and 5th April, 1949.

²The words within square brackets were substituted for the words "East Bengal" by E.P. Ord. XXVIII of 1960, First Schedule.

³The words within square brackets were substituted for the words "Province of East Bengal in the Dominion of Pakistan", *ibid.*

⁴The words within square brackets were substituted for the words "Province of West Bengal or Bihar or Assam in the Dominion of India," *ibid.*

⁵The Act came into force on the 24th October, 1949, *vide* notification No. 5088L.R., dated the 22nd October, 1949, published in *Dacca Gazette, Extraordinary*, dated the 24th October, 1949, Pt. I, p. 899.

(Sections 3, 4.)

- (3) "common estates" means estates, tenures or holdings which were held directly under the Provincial Government of Bengal or Bihar or Assam immediately before the date on which the award came into force and are comprised of lands situated, after the said date, partly in the Province of ¹[East Pakistan] and partly in the Province of ²[West Bengal or Bihar or Assam in India];
- (4) the expression "common tenures or holdings" means tenures or holdings which are comprised of lands situated, after the date on which the award came into force, partly in the Province of ¹[East Pakistan] and partly in the Province of ²[West Bengal or Bihar or Assam in India] but does not include common estates;
- (5) "land revenue" includes any rent payable in respect of any common estate;
- (6) "prescribed" means prescribed by rules made by the Provincial Government under this Act;
- (7) "Revenue-officer" includes any officer whom the Provincial Government may appoint to discharge any of the functions of a Revenue-officer under this Act; and
- (8) "tenure" includes a *putni* tenure.

Apportionment of land revenue and cesses of common estates.

3. As soon as may be after this Act has come into force, the Revenue-officer shall, in accordance with such principles and in such form and manner as may be prescribed,* determine the amounts of the land revenue and the cesses payable in respect of the portion of each common estate situated in the Province of ³[East Pakistan] and prepare in the prescribed form in respect of each such estate an Apportionment-roll in which, in addition to such other particulars as may be prescribed, the land revenue and the cesses so determined shall be specified.

Power to order preparation of Apportionment-roll in respect of common tenures and holdings.

4. At any time after this Act has come into force, the Provincial Government may, by notification in the *Official Gazette*, make an order directing that an Apportionment-roll be prepared in such manner and containing such particulars as may be prescribed in respect of all lands situated in any district, part of a district or local area in the Province of ³[East Pakistan] and forming parts of any common tenure or holding.

¹The words within square brackets were substituted for the words "East Bengal in the Dominion of Pakistan" by E.P. Ord. XXVIII of 1960, First Schedule.

²The words within square brackets were substituted for the words "West Bengal or Bihar or Assam in the Dominion of India", *ibid.*

³The words within square brackets were substituted for the words "East Bengal", *ibid.*

(Sections 5—7.)

5. (1) When an Apportionment-roll in respect of any common estate has been prepared under section 3, the Revenue-officer shall cause a draft of it to be published in the prescribed manner and for the prescribed period, and shall receive any objections which may be made to any entry therein or to any omission therefrom, during the period of publication.

Draft publication of Apportionment-roll and inspection of records in respect of common estates.

(2) A copy of such Apportionment-roll, together with a copy of the records on the basis of which such roll has been prepared, shall also be made available to the person interested for inspection in the office of the Revenue-officer during office hours during such period as may be prescribed.

6. (1) After the expiry of the period within which an objection may be filed under sub-section (1) of section 5, the Revenue-officer shall submit the Apportionment-roll and the records leading to the preparation of such roll to the prescribed Revenue authority with a summary of the objections, if any, which he has received and his report thereon.

Final disposal of objections and confirmation of the Apportionment-roll in respect of common estates and final publication of such roll.

(2) Such authority shall finally dispose of the objections submitted to it under sub-section (1) according to such rules as the Provincial Government may make and may confirm the roll with or without amendment:

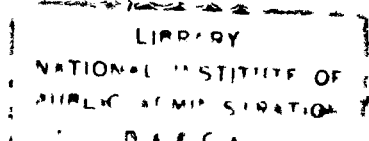
Provided that no entry shall be amended, or omission supplied unless notice has been given to the parties concerned in such manner as may be prescribed to appear and be heard in the matter.

(3) After confirmation by such authority, the Revenue-officer shall cause the Apportionment-roll as so confirmed to be finally published in the prescribed manner and the publication shall be conclusive evidence that the roll has been duly made under this Act.

7. (1) When an order has been made for the preparation of an Apportionment-roll under section 4, the Revenue-officer shall prepare such roll accordingly containing, in addition to the particulars referred to in section 4, the amounts of rents and cesses payable in respect of the portions included in such district, part of a district, or local area of common tenures or holdings, to be determined by the Revenue-officer in such manner and in accordance with such principles as may be prescribed.

Preparation of Apportionment-roll in respect of common tenures or holdings, and draft and final publication of such roll.

(2) When an Apportionment-roll has been prepared under sub-section (1), the Revenue-officer shall cause a draft of it to be published in the prescribed manner and for



(Sections 8, 9.)

the prescribed period, and shall receive and consider any objections which may be made to the entry therein or to any omission therefrom, during the period of publication.

(2) When such objections have been considered and disposed of according to such rules as the Provincial Government may make, the Revenue-officer shall finally frame the roll and cause it to be finally published in the prescribed manner and the publication shall be conclusive evidence that the roll has been duly made under this Act.

Commence-
ment and
effect of the
Apportion-
ment-roll.

8. On the final publication of an Apportionment-roll under sub-section (3) of section 6 or under sub-section (3) of section 7, as the case may be,—

(a) the apportionment and fixation, thereunder of land revenues or rents, as the case may be, and of cesses in respect of the portion situated in the Province of [East Pakistan] of the common estate, tenure or holdings to which such roll relates shall, notwithstanding anything contained in any other law for the time being in force or in any contract, be binding on the holder of such estate or the holders of such tenures or holdings and their superior landlords, as the case may be, and be deemed to have come into force, and the common estate, tenures or holdings shall be deemed to have been partitioned accordingly, on and from the date on which the award came into force, and

(b) all laws for the time being in force relating to the creation or settlement of estates, tenures or holdings or to the recovery of land revenue, rent or cesses in respect thereof shall be deemed to have been applicable *mutatis mutandis* to such partitioned estate, tenures or holdings on and from the said date.

Appeal and
saving and
correction of
Apportion-
ment-roll.

9. (1) Any person who is aggrieved by any entry in, or omission from, an Apportionment-roll finally published under sub-section (3) of section 6 or under sub-section (3) of section 7 may appeal to the prescribed superior Revenue authority in such manner and within such period as may be prescribed.

(2) Notwithstanding anything contained in any other law for the time being in force, no Court shall have any jurisdiction in respect of any issue arising out of the proceedings under this Act for the apportionment and fixation of land revenues, rents and cesses or shall annul or alter any decision of a Revenue-officer or Revenue authority under this Act.

¹ The words within sq are brackets were substituted for the words "East Bengal" by E. P. Ord. XXVIII of 1960, First Schedule.

(Sections 10, 11.)

(3) The Revenue-officer may, at any time, either of his own motion or on application and after giving notice to the parties concerned in such manner as may be prescribed, to appear and be heard in the matter, correct any clerical or arithmetical mistake in an Apportionment-roll finally published under sub-section (3) of section 6 or under sub-section (3) of section 7, as the case may be, or any error arising therein from any accidental slip or omission and shall make such alterations therein as may be necessary to give effect to any decision on appeal under sub-section (1).

10. The Board of Revenue may, at any time on application or of its own motion, revise any entry in an Apportionment-roll finally published under sub-section (3) of section 6 or under sub-section (3) of section 7: Power of revision.

Provided that no such revision shall be made unless notice has been given to the parties concerned in such manner as may be prescribed to appear and be heard in the matter.

11. (1) The Provincial Government may make rules for carrying out the purposes of this Act. Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the principles, form and manner of and the procedure for determining the amounts of land-revenue and cesses, the form of the Apportionment-roll and the particulars to be specified in such roll, referred to in section 3;
- (b) the manner of preparing an Apportionment-roll under section 4 and the particulars which such roll shall contain;
- (c) the manner of and the period for the publication of a draft Apportionment-roll under sub-section (1) of section 5;
- (d) the period for which an Apportionment-roll shall be available for inspection under sub-section (2) of section 5;
- (e) the Revenue authority referred to in sub-section (1) of section 6;
- (f) the disposal of objections under sub-section (2) of section 6 and the manner of giving notice referred to in the proviso to the said sub-section;

[E. B. Act XX of 1949.]

(Section 11.)

- (g) the manner of final publication of an Apportionment-roll under sub-section (3) of section 6;
- (h) the manner and principles of and the procedure for the determination of rents and cesses referred to in sub-section (1) of section 7;
- (i) the manner of and the period for the publication of a draft Apportionment-roll under sub-section (2) of section 7;
- (j) the disposal of objections under sub-section (3) of section 7 and the manner of final publication of an Apportionment-roll under that sub-section;
- (k) the superior Revenue authority to whom an appeal may be preferred under sub-section (1) of section 9 and the manner in which and the period within which such appeal may be preferred; and
- (l) the manner of giving the notice referred to in sub-section (3) of section 9 or in the proviso to section 10.

East Bengal Act XXI of 1949.

THE BENGAL MONEY-LENDERS (EXTENSION TO
SYLHET) ACT, 1949¹.

[12th August, 1949.]

An Act to amend the provisions of the Bengal Money-Lenders Act, 1940, in its application to the district of Sylhet.

WHEREAS it is expedient to make better provision for the control of money-lenders and for the regulation and control of money-lending in the district of Sylhet in the manner hereinafter appearing;

It is hereby enacted as follows:—

1. (1) This Act may be called the Bengal Money-Lenders (Extension to Sylhet) Act, 1949.

Short title,
extent and
commence-
ment.

(2) It extends to the district of Sylhet.

(3) It shall come into force on such date² as the Provincial Government may, by notification in the *Official Gazette*, appoint.

2. In this Act (hereinafter referred to as the Extending Act), unless there is anything repugnant in the subject or context,—

Definition.

Ben. Act
X of 1940. The word “Act” wherever it occurs in this Extending Act, shall mean the Bengal Money-Lenders Act, 1940.

Ben. Act
X of 1940. 3. The Bengal Money-Lenders Act, 1940, shall apply to the district of Sylhet subject to the amendments stated hereinafter:—

Amendment
of Bengal Act
X of 1940.

(a) For the expression “before or after the commencement of this Act” wherever it occurs in the Act, the following shall be substituted, namely:—

“before or after the commencement of the Extending Act.”

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 8th January, 1949, Pt. IVA, p. 15; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 15th March and 17th April, 1949.

²The Act came into force with effect from the 26th August, 1949, vide notification No. 3797J., dated the 25th August, 1949, published in *Dacca Gazette, Extraordinary*, dated the 26th August, 1949, Pt. I, p. 695.

(Section 3.)

- (b) For the expression "before the commencement of this Act" wherever it occurs in the Act, the following shall be substituted, namely:—

"before the commencement of the Extending Act."

- (c) For the expression "after the commencement of this Act" wherever it occurs in the Act, the following shall be substituted, namely:—

"after the commencement of the Extending Act."

- (d) For the expression "on the first day of January, 1939," wherever it occurs in the Act, the following shall be substituted, namely:—

"on the 15th day of August, 1947."

Amendment
of section 2.

- (e) In sub-clause (g) of clause (12) of section 2 of the Act, the expression "or Assam Municipal Act, 1923" shall be inserted after the figure "1932" and before the word "if".

Amendment
of section 8.

- (f) For the expression "six months after the commencement of this Act" in section 8 of the Act, the following shall be substituted, namely:—

"two months after the commencement of the Extending Act."

Amendment
of section 36.

- (g) In the first proviso to clause (e) of sub-section (1) of section 36 of the Act, after the word "Claim" and, before the comma, the following shall be inserted, namely:—

"or fifteenth August, 1947, whichever is later."

- (h) In the second proviso to clause (e) of sub-section (1) of section 36 of the Act, the following shall be added, at the end, namely:—

"or an agreement made under the Assam Debt Conciliation Act, 1936."

Assam
Act X c
1936.

- (i) In sub-clause (ii) of clause (a) of sub-section (6) of section 36 of the Act, for the expression "the date of the commencement of this Act" the following shall be substituted, namely:—

"the date of the commencement of the Extending Act."

Amendment
of section 45.

- (j) In section 45 of the Act, after the expression "the Bengal Money-Lenders Act, 1933" and before the comma, the following shall be inserted, namely:—

"and the Assam Money-Lenders Act, 1934."

Assam
Act IV c
1934.

East Bengal Act XXIII of 1949.

THE EAST BENGAL NON-AGRICULTURAL TENANCY ACT, 1949¹.

[20th October, 1949.]

An Act to make better provision relating to the law of landlord and tenant in respect of certain non-agricultural tenancies in ²[East Pakistan].

WHEREAS it is expedient to make better provision relating to the law of landlord and tenant in respect of certain non-agricultural tenancies in ²[East Pakistan] ;

It is hereby enacted as follows :—

CHAPTER I.

Preliminary.

1. (1) This Act may be called the East Bengal Non-Agricultural Tenancy Act, 1949. Short title,
extent and
commence-
ment.

(2) It extends to the whole of ²[East Pakistan].

(3) It shall come into force on such date³ as the Provincial Government may, by notification in the *Official Gazette*, appoint.

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

(1) “Bengali year” means a year ending on the last day of the Bengali month of Chaitra ;

(2) “Collector” includes any officer appointed by the Provincial Government to perform all or any of the functions of a Collector under this Act ;

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 14th January, 1949, Pt. IVA, p. 111; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 12th March, 2nd, 4th, 8th, 9th and 11th April, 1949.

The Act was extended to those areas of the district of Mymensingh which were known as “Partially Excluded Areas” immediately before the coming into force of the Constitution which was abrogated by the Presidential Proclamation of the 7th October, 1958, vide notification No. 4997L. R., dated the 19th October, 1949, published in *Dacca Gazette, Extraordinary*, dated the 20th October, 1949, Pt. I, p. 830.

²The words within square brackets were substituted for the words “East Bengal” by E. P. Ord. XXVIII of 1960, First Schedule.

³The Act came into force with effect from the 20th October, 1949, vide notification No. 4995L. R., dated the 19th October, 1949, published in *Dacca Gazette, Extraordinary*, dated the 20th October, 1949, Pt. I, p. 830.

(Section 2.)

- (3) "Landlord" means a person immediately under whom a non-agricultural tenant holds ;
- (4) "Non-agricultural land" means land which is used for purposes not connected with agriculture or horticulture and includes any land which is held on lease for purposes not connected with agriculture or horticulture irrespective of whether it is used for any such purposes or not, but does not include—
 - (a) a homestead to which the provisions of section 182 of the Bengal Tenancy Act, 1885, apply, VIII of 1885.
 - (b) land which was originally leased for agricultural or horticultural purposes but is being used for purposes not connected with agriculture or horticulture without the consent either express or implied of the landlord, if the period for which such land has been so used is less than twelve years, and
 - (c) land which is held for purposes connected with the cultivation or manufacture of tea :

Provided that where an order has been made under section 72 converting a parcel of land which is not non-agricultural land into a tenancy to which the provisions of this Act apply such land shall be deemed to be non-agricultural land ;

- (5) "Non-agricultural tenant" means a person who holds non-agricultural land under another person with the consent of that person and is, or but for a special contract would be, liable to pay rent to such person for that land and also includes the successors-in-interest of the former but does not include any person who holds any such land on which any premises occupied by such person are situated if such premises have been erected, or are owned, by the person to whom such occupier is, or but for a special contract would be, liable to pay rent for such occupation ;

Explanation.—In this clause "premises" mean any building such as a house, manufactory, warehouse, stable, shop or hut whether constructed of masonry, bricks, concrete, wood, mud, metal or any other material whatsoever and includes any land appertaining to such building.

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

of 1949.]

(Sections 3—5.)

(7) “pucca structure” means any structure constructed mainly of brick, stone or concrete or any combination of these materials ;

(8) all words and expressions used but not defined in this Act and used in the Bengal Tenancy Act, 1885, or the Transfer of Property Act, 1882, have the same meanings as in those Acts.

VIII of
1885.
IV of
1882.

CHAPTER II.

Classes of non-agricultural tenants.

3. (1) There shall be, for the purposes of this Act, the following classes of non-agricultural tenants, namely :—

Classes of
non-agricul-
tural tenants

(a) tenants, and

(b) under-tenants.

(2) “Tenant” means a person who has acquired from a proprietor or a tenure-holder a right to hold non-agricultural land for any of the purposes provided in this Act, and includes also the successors-in-interest of persons who have acquired such a right.

(3) “Under-tenant” means a person who has acquired a right to hold non-agricultural land for any of the purposes provided in this Act either immediately or mediately under a tenant and includes also the successors-in-interest of persons who have acquired such a right.

4. A non-agricultural tenant may hold non-agricultural land for—

(a) homestead or residential purposes ;

(b) manufacturing or business purposes ; or

(c) religious or other purposes.

Purposes for
which non-
agricultural
tenant may
hold non-
agricultural
land.

5. A non-agricultural tenant shall be deemed to hold any non-agricultural land—

(a) for homestead or residential purposes if such tenant is entitled, under the terms of any agreement between himself and the landlord to use or is actually using such land for homestead or residential purposes ;

(b) for manufacturing or business purposes if such tenant is entitled, under the terms of any agreement between himself and landlord, to use or

Tenancies
held by a
non-agricul-
tural tenant.

(Section 6.)

is actually using such land for carrying on therein any commercial or industrial enterprise or any trade or business ; and

- (c) for religious or other purposes if such tenant is entitled, under the terms of any agreement between himself and landlord, to use or is actually using such land for a religious purpose or for any purpose not connected with agriculture or horticulture other than—
 - (i) the purposes specified in-clauses (a) and (b), and
 - (ii) the exercise of any forest-rights or rights over fisheries or rights to minerals in such land.

CHAPTER III.

Tenants.

Manner of
use of non-
agricultural
lands.

6. (1) A tenant holding non-agricultural land may use such land in any manner which is not inconsistent with any of the purposes for which non-agricultural land may be held under this Act and which does not materially impair the value of such land.

(2) A tenant holding non-agricultural land comprised in any tenancy to which the provisions of section 7 or section 8 apply shall be entitled—

- (a) to erect any structure including any pucca structure ;
- (b) to erect a mosque, a temple or any other place of worship ;
- (c) to dig any tank; and
- (d) to plant, enjoy the flowers, fruits and other products of, and fell and utilize or dispose of the timber of, any tree on such land.

(3) A tenant holding non-agricultural land comprised in any tenancy to which the provisions of section 9 apply shall be entitled—

- (a) to erect any structure other than a pucca structure ;
- (b) to plant, and enjoy the flowers, fruits and other products of, any tree, and
- (c) to fell, and utilise or dispose of the timber of, any tree planted by him on such land.

of 1949.]

(Section 7.)

7. Notwithstanding anything contained in any other law for the time being in force or in any contract—

Incidents of certain tenancies.

IV of
1882.

(1) if any non-agricultural land has been held with or without any lease having been entered into by the landlord and the tenant from before the commencement of the Transfer of Property Act, 1882, or if the origin of any tenancy is unknown, or

IV of
1882.

(2) if the non-agricultural land comprised in any tenancy which has been or is created after the commencement of the Transfer of Property Act, 1882, has been held for a period of not less than twelve years without any lease in writing, or

(3) if any non-agricultural land has been held under a lease in writing for a period of not less than twelve years but no term is specified in such lease, or

(4) if any non-agricultural land held under a lease in writing for a period specified therein continues to be held after the expiration of the time limited by such lease and the total period for which such land is so held is not less than twelve years, or

(5) if the landlord has allowed *pucca* structures to be erected on any non-agricultural land held under a lease in writing for a period specified therein, whether such structures have been erected—

(a) before the expiration of the said period, or

(b) where such non-agricultural land continues to be held with the express or implied consent of the landlord after the expiration of the said period, during the period such non-agricultural land so continues to be held,

then—

(i) the tenant holding the non-agricultural land comprised in such tenancy shall not be ejected by his landlord from such land except on the ground that he has used such land in a manner which renders it unfit for use for any of the purposes specified in section 4 ;

(ii) the interest of the tenant in the non-agricultural land comprised in such tenancy shall, in the case where such tenant dies intestate in respect of such interest, be transmitted by

(Section 8.)

inheritance in the same manner as his other immovable property :

Provided that in any case in which under the law of inheritance to which such tenant is subject, his other property goes to the State, his interest in such land shall be extinguished, and

(iii) the non-agricultural land comprised in such tenancy or a share or a portion thereof together with the interest of the tenant therein shall, subject to the provisions of this Act, be capable of being transferred and bequeathed in the same manner, and to the same extent as his other immovable property.

Renewals of lease of tenancies held for not less than twelve years and succession to, and transfer of, such tenancies.

8. (1) Notwithstanding anything contained in any other law for the time being in force or in any contract, where any non-agricultural land is held under a lease in writing for a term of not less than twelve years specified in such lease, the tenant holding such land shall, on the expiration of the period so specified, be entitled to the renewal of such lease for perpetuity on such fair and reasonable rent as may be agreed upon between the landlord and such tenant :

Provided that no premium or *salami* shall be payable in respect of such renewal.

(2) If there is any dispute as to whether the rent demanded or offered for the renewal of a lease under sub-section (1) is fair and reasonable, the landlord or the tenant may apply in the prescribed manner to the Court, and the Court shall thereupon determine the amount of rent for renewal of the lease which it considers fair and reasonable in the circumstances of the case.

(3) A tenant holding non-agricultural land comprised in a tenancy to which the provisions of sub-section (1) apply shall not be ejected by his landlord from such land during the term specified in the lease, nor at any time after the tenant has exercised his right of renewal, except on the ground that he has used such land in a manner which renders it unfit for use for any of the purposes specified in section 4.

(4) The interest of the tenant in any non-agricultural land held under a lease to which the provisions of sub-section (1) apply shall, during the term specified in the lease,

of 1949.]

(Section 9.)

or where the tenant has exercised his right of renewal, at any time thereafter—

- (i) in the case where such tenant dies intestate in respect of such interest, be transmitted by inheritance in the same manner as his other immovable property :

Provided that in any case in which, under the law of inheritance to which such tenant is subject, his other property goes to the State his interest in such land shall be extinguished ; and

- (ii) subject to the provisions of this Act, be capable of being transferred and bequeathed in the same manner and to the same extent as his other immovable property.

9. (1) Notwithstanding anything contained in any other law for the time being in force or in any contract, if any non-agricultural land has been held for a term of more than one year but less than twelve years—

Incidents of non-agricultural tenancies held for less than twelve years.

- (a) without a lease in writing, or
- (b) under a lease in writing for a term of more than one year and less than twelve years to which the provisions of clause (5) of section 7 do not apply, or
- (c) under a lease in writing but no term is specified in such lease,

then the tenant holding such non-agricultural land shall be liable to ejectment on one or more of the following grounds and not otherwise, namely :—

- (i) on the ground that he has used such land in a manner which renders it unfit for use for any of the purposes specified in section 4 ;
- (ii) on the ground that the term of the lease has expired in the case of tenancies of the class specified in in clause (b) ;
- (iii) on the ground that the tenancy has been terminated by the landlord by six months' notice in writing expiring with the end of a year of the tenancy served on the tenant in the prescribed manner in the case of tenancies of the class specified in clause (a) :

Provided that a tenant shall not be liable to ejectment on the ground specified in clause (iii) except on payment of such reasonable compensation on account of the cost of removal of any structure

[E. B. Act XXIII

(Sections 9A—11.)

erected or of any improvement effected on such land at the expense of the tenant or on other accounts not being the value of the land as may be agreed upon between the landlord and the tenant or if they do not agree, as may be determined by the court on the application of the landlord or such tenant.

(2) The interest of the tenant in any non-agricultural land to which the provisions of sub-section (1) apply shall—

- (i) in the case where such tenant dies intestate in respect of such interest, be transmitted by inheritance in the same manner as his other immovable property :

Provided that in any case in which under the law of inheritance to which such tenant is subject his other property goes to the State, his interest in such land shall be extinguished ; and

- (ii) subject to the provisions of this Act, be capable of being transferred and bequeathed in the same manner and to the same extent as his other immovable property.

Computation of the period of possession.

9A. In computing under this Chapter the period for which any non-agricultural land has been held by a tenant, he shall be entitled to tack to the length of his possession any periods during which his predecessors-in-interest were in possession of the land, provided that there is no break between the periods to be tacked.

Special provisions applicable to tenancies for specific religious purposes.

10. Notwithstanding anything elsewhere contained in this Act or in any other law for the time being in force or in any contract, if the non-agricultural land comprised in any tenancy is held specifically for any religious purpose for any period under a lease in writing in which such purpose is specified, then such tenancy shall be deemed to be a tenancy of the class specified in section 7:

Provided that the tenant holding such land shall not be ejected by his landlord from such land except on the ground that he has used such land for any purpose other than the said religious purpose or has not used the land for the said religious purpose for more than three years.

Enhancement of rent.

11. (1) The rent payable by a tenant in respect of any non-agricultural land shall except in the case where such land is held on a fixed rent or free of rent either under a contract or under a decree or order passed by a competent Court or authority, be liable to enhancement as provided by this Act and not otherwise.

(Section 12.)

(2) The rent payable by a tenant may be enhanced up to such limit as the Court thinks fair and equitable in the circumstances of the case :

Provided that the rent shall not be enhanced so as to exceed the rent previously payable by the tenant by more than twelve and a half per centum.

(3) In determining a fair and equitable rent under subsection (2) the Court shall, subject to such further provisions as may be prescribed in this behalf, take into consideration—

- (a) the existing rent and the period during which it has remained without enhancement ;
- (b) as far as can expediently be ascertained, the rent paid to other landlords for non-agricultural lands in the vicinity with similar advantages or of a similar description ;
- (c) the market value of the non-agricultural land determined by taking the average market value of five years preceding and the rent which would be payable if the rate were fixed at not more than two per centum of such market value ;
- (d) the special conditions and incidents, if any, of the tenancy ; and
- (e) any cost incurred in making any improvement to or on the non-agricultural land or in converting such land for the purpose for which it is being used according to the conditions of the tenancy.

12. (1) When an enhancement is claimed on the ground of a landlord's improvement,—

Provisions as to enhancement on ground of landlord's improvement.

- (a) the Court shall not grant an enhancement unless the improvement has been registered in accordance with the provisions of this Act ; and
- (b) in determining the amount of enhancement the Court shall have regard to,—
 - (i) the increase in the value of the non-agricultural land caused or likely to be caused by the improvement,
 - (ii) the cost of the improvement,
 - (iii) the expenditure (if any), required for utilising the improvement, and
 - (iv) the existing rent and the ability of the non-agricultural land to bear a higher rent.

[E. B. Act XXIIH

(Sections 13—16.)

(2) A decree under this section, shall, on the application of the tenant, be subject to reconsideration in the event of the improvement not producing or ceasing to produce the estimated effect.

Powers to order progressive enhancement.

13. If it thinks that an immediate increase of rent will cause hardship, the Court may direct that the enhancement shall take effect gradually at such intervals and by such increments extending over a period not exceeding five years as the Court may fix in this behalf.

Limitation of right to enhancement.

14. (1) When a tenant is admitted to the occupation of any non-agricultural land, the rent payable by such tenant in respect of such land shall not, except on the ground of landlord's improvement, be enhanced during the fifteen years next following the date on which the tenant has been so admitted to the occupation of such land.

(2) When the rent of a tenant has been enhanced by the Court or in pursuance of the conditions of a contract, it shall not be further enhanced during the fifteen years next following the date on which it has been last so enhanced and for the purposes of this section if an order of gradual enhancement of such rent has been made by a Court in accordance with the provisions of section 13, the full rent fixed by such order shall be deemed to have come into effect from the date of such order :

Provided that the landlord of such tenant may institute a suit for the enhancement of the rent of such tenancy during the said period of fifteen years on the ground of any improvement effected to the non-agricultural land comprised in such tenancy by or wholly or partly at the expense of, such landlord during such period.

Reduction of rent.

15. The rent of a tenant may be reduced by the Court if the Court considers that the rate of rent payable by such tenant is unfair and inequitable, and in determining what rent is fair and equitable under this section the Court shall have regard to the provisions of sub-section (3) of section 11.

CHAPTER IV.

Under-tenants.

Application of Chapter.

16. The provisions of this Chapter shall apply to all under-tenants whether their tenancies were created before or after the commencement of this Act.

(Sections 17—20.)

17. An under-tenant may be admitted to the occupation of any non-agricultural land on such terms and conditions consistent with the provisions of this Act as may be agreed on between himself and his landlord.

Terms on which an under-tenant may be admitted to occupation of non-agricultural land.

18. An under-tenant shall be liable to pay such rate of rent for the non-agricultural land comprised in his tenancy as has been agreed on between himself and his landlord at the time of his admission to the occupation of such land :

Rate of rent payable by an under-tenant.

Provided that the rate of rent payable in respect of the non-agricultural land comprised in any tenancy by an under-tenant who has been admitted to occupation of such land after the commencement of this Act shall not, except in the case where such land is held on a fixed rent or free of rent by the tenant under whom such under-tenant holds, exceed one and a half times the rate of rent payable by such tenant in respect of such land.

19. (1) Notwithstanding anything contained in any other law for the time being in force or in any contract, the rent of an under-tenant shall be liable to enhancement up to a limit not exceeding one and a half times the rent for the time being payable in respect of the non-agricultural land comprised in the tenancy of such under-tenant by the tenant under whom such under-tenant holds in the case where such tenant does not hold such land at a fixed rent or free of rent, and up to such limit as the Court may, subject to such provisions as may be prescribed in this behalf, think fair and equitable in other cases.

Enhancement of rent.

(2) For the purposes of sub-section (1) the rent for the time being payable in respect of the non-agricultural land comprised in the tenancy of an under-tenant by the tenant under whom such under-tenant holds shall, in the case where such under-tenant has been admitted to the occupation of only a portion of the land comprised in the tenancy of such tenant, be determined in such manner as may be prescribed.

20. Notwithstanding anything contained in any other law for the time being in force or in any contract, an under-tenant shall, subject to the provisions of this Act, be liable to ejectment on one or more of the following grounds, and not otherwise, namely:—

Ejectment of an under-tenant.

- (a) on the ground that he has used the non-agricultural land comprised in his tenancy in a manner which renders it unfit for use for any of the purposes specified in section 4;

(Sections 21, 22.)

- (b) on the ground that the term of his lease has expired when he holds the non-agricultural land under a written lease:

Provided that in the case where any non-agricultural land is held by an under-tenant without a lease in writing or under a lease in writing but no term is specified in such lease, it shall be also lawful for his landlord to eject him from such land after having given him six months' notice in writing expiring with the end of a year of the tenancy, and on payment of such reasonable compensation as may be agreed upon between the landlord and the under-tenant, or in the case where they do not agree, as may be determined by the Court on the application of the landlord or such under-tenant.

Other incidents of tenancies of under-tenants.

21. The interest of an under-tenant in any non-agricultural land shall,—

- (a) in the case where such under-tenant dies intestate in respect of such interest, be transmitted by inheritance in the same manner as his other immovable property:

Provided that in any case in which under the law of inheritance to which such under-tenant is subject his other property goes to the State, his interest in such land shall be extinguished; and

- (b) subject to the provisions of this Act, be capable of being transferred and bequeathed in the same manner and to the same extent as his other immovable property.

Special incidents of a permanent tenancy of an under-tenant.

22. Notwithstanding anything contained in any other law for the time being in force or in any contract, where the conditions referred to in clauses (1), (2), (3), (4) or (5) of section 7 or section 10 are fulfilled in relation to the tenancy of an under-tenant or where any non-agricultural land is held by an under-tenant under a lease in writing for a term of not less than twelve years specified in such lease, such under-tenant shall have as regards his immediate landlord all the rights and liabilities of a tenant as set forth in section 7, section 8 or section 10, as the case may be, and the provisions of sections 6 and 11 to 15 shall apply, and the provisions of sections 18, 19 and 20, in so far as they are inconsistent with the provisions of this section, shall not apply, to such under-tenant.

of 1949.]

(Section 23.)

CHAPTER V.

Provisions as to transfer of non-agricultural land.

Ben. Act
III of
1913.

23. (1) Every transfer of non-agricultural land held by a non-agricultural tenant or of any portion or share thereof shall, except in the case of a bequest or a sale in execution of a decree or of a certificate signed under the Bengal Public Demands Recovery Act, 1913, be made by registered instrument, and a Registering officer shall not accept for registration any such instrument unless the sale price or, where there is no sale price, value of the land or portion or share thereof transferred is stated therein, and unless it is accompanied by—

Manner of
transfer of
non-agricul-
tural land
and notices
to landlords.

(a) a notice giving the particulars of the transfer in the prescribed form, together with the process fee prescribed for the service thereof on the landlord who is not a party to the transfer, and

(b) such notices and process fees as may be required by sub-section (4).

(2) In the case of a bequest of such land or portion or share thereof, no Court shall grant probate or letters of administration until the applicant files a notice similar to, and deposits a process fee of the same amount, as, that referred to in clause (a) of sub-section (1).

Ben. Act
III of
1913.

(3) A Court or Revenue-officer shall not confirm the sale of such land or portion or share thereof put to sale in execution of a decree or a certificate signed under the Bengal Public Demands Recovery Act, 1913, and no Court shall make a decree or order absolute for foreclosure of a mortgage of such land or portion or share thereof until the purchaser or the mortgagee, as the case may be, files a notice similar to and deposits a process fee of the same amount as that referred to in sub-section (1).

(4) If the transfer of a portion or share of such land be one to which the provisions of section 24 apply there shall be filed notices giving particulars of the transfer in the prescribed form together with process fees prescribed for the service thereof on all co-sharer tenants of such land who are not parties to the transfer.

(Section 24.)

(5) The Court, Revenue-officer or Registering officer, as the case may be, shall in the prescribed manner serve the notices for which this section provides and after service of such notice the landlord shall not refuse to recognise the transferee as the tenant in respect of the land or portion or share thereof transferred nor omit to enter the name of the transferee in the rent-roll of the landlord in place of that of the transferor or, where only a portion or share of the interest of the transferor has been transferred, along with the name of the transferor.

Power of the co-sharer or the immediate landlord of transferor to purchase.

24. (1) If a portion or share of the non-agricultural land held by a non-agricultural tenant is transferred, one or more co-sharer tenants of such land, or if the non-agricultural land held by non-agricultural tenant or a portion or share thereof is transferred, the immediate landlord of such non-agricultural tenant may within four months of the service of notice issued under section 23 and in case no notice had been issued or served then within four months from the date of knowledge of such transfer, apply to the Court for such portion or share or for such land or portion or share, to be transferred to himself or to themselves, as the case may be:

Provided that—

- (a) if both the co-sharer tenant and the landlord apply under this section and comply with the provisions herein contained the co-sharer tenant shall have the prior right to purchase under this section;
- (b) the immediate landlord of the non-agricultural tenant shall not have any right to purchase under this section unless the non-agricultural land or the share or portion thereof so transferred is contiguous to any land in the actual possession of the landlord and the Court is satisfied that such land or share or portion thereof is required for use by such landlord for any of the purposes specified in section 4; and
- (c) in the case of a transfer in execution of a decree or certificate signed under the Bengal Public Demands Recovery Act, 1913, for arrears of rent due in respect of such land, the immediate landlord of the non-agricultural tenant shall not have any right to purchase under this section.

(Section 24.)

(2) The application under sub-section (1) shall be dismissed unless the applicant at the time of making it deposits in Court the amount of the consideration money or the value of the property or the portion or share thereof transferred as stated in the notice served on the applicant under section 23 together with compensation at the rate of five per centum of such amount.

(3) If such deposit is made, the Court shall give notice to the transferee to appear within such period as it may fix and to state what other sums he has paid in respect of rent for the period after the date of transfer or in annulling encumbrances on the property and also what other amounts, if any, have been spent by him, between the date of the transfer and the date of service of the notice of the application, in erecting any building or structure or in making any other improvement in the property or the portion or share thereof transferred. The Court shall then direct the applicant, including any person whose application under sub-section (4) is granted, to deposit within such period as the Court thinks reasonable such amount as the transferee has paid or spent on these accounts together with interest at the rate of six and a quarter per centum per annum with effect from the date on which the transferee made such payments or spent such amounts:

Provided that if the correctness of any amount claimed to have been paid or spent by the transferee on any such account is disputed by any applicant the Court shall enquire into such dispute and, after giving the transferee an opportunity of being heard, determine the amount actually paid or spent by the transferee on any such account and shall then direct the applicant to deposit the amount so determined with interest at the rate of six and quarter per centum per annum as aforesaid within such period as the Court thinks reasonable.

(4) (a) When an application has been made by one or more co-sharer tenants under sub-section (1) any of the remaining co-sharer tenants including the transferee, if one of them, may within the period of four months referred to in the said sub-section or within one month of the service of notice of the application, whichever is later, apply to join in the said application, and any co-sharer tenant who has not applied under sub-section (1) or has not applied to join under this sub-section, shall not have any further right to purchase under this section.

(b) Such application to join as a co-applicant shall be dismissed unless within such period as the Court may fix,

(Section 24.)

the applicant deposits in Court for payment to the applicant under sub-section (1), such sum, as the Court shall determine as the share to be paid by him for the purposes of sub-section (2).

(c) If such deposit is made, the Court shall grant the application to join and thereafter such applicant shall be deemed to be an applicant under sub-section (1).

(5) If the deposits required under sub-section (2) or clause (b) of sub-section (4), as the case may be, and under sub-section (3) are made, and, in the case where the application is made by the immediate landlord, the Court is satisfied that the conditions referred to in sub-section (1) have been fulfilled the Court shall make an order allowing the application and directing that the deposits made under sub-sections (2) and (3) shall be paid to the transferee or to such persons as the Court thinks fit:

Provided that if both the immediate landlord and the co-sharer tenant have applied under this section and the application of the co-sharer tenant is allowed under this sub-section, the application of the immediate landlord shall be dismissed.

(6) Notwithstanding anything contained in any other law for the time being in force the Court shall, if the applicant under sub-section (1) or any person whose application under sub-section (4) is granted disputes the correctness of the amount of the consideration money as stated in the notice issued under section 23, inquire into such dispute before making an order under sub-section (5) and after giving the transferee an opportunity of being heard determine for the purposes of this section the amount of the consideration money which the transferee has actually paid for the transfer of the property or the portion or the share thereof, as the case may be, and the amount so determined shall be deemed to be the consideration money referred to in sub-section (2) and where the amount of the consideration money has been so determined the deposit made under that sub-section shall for the purposes of sub-section (5) be the amount so determined together with the compensation at the rate of five per centum of such amount.

(7) In making an order under sub-section (5) in favour of more than one co-sharer tenant, the Court may apportion the property comprised in the portion or share transferred among the applicants in such manner as it deems equitable after taking existing possession into consideration; the Court shall so apportion the said

of 1949.]

(Section 24.)

property or portion thereof on the request of any applicant and, in this case, may require the applicant who makes such request to deposit, within such period as the Court may fix, such further sums as the Court considers necessary for equitable distribution among the remaining applicants:

Provided that no apportionment order under this sub-section shall operate as a division of the tenancy.

(8) From the date of making of the order under sub-section (5)—

- (i) the right, title and interest in the non-agricultural land or portion or share thereof accruing to the transferee from the transfer shall, subject to any orders passed under sub-section (7), be deemed to have vested free from all encumbrances which have been annulled or created after the date of transfer, in the immediate landlord or in the co-sharer tenant, as the case may be, whose application to purchase has been allowed under this section,
- (ii) the liability of the transferee for the rent due from him on account of the transfer shall cease, and
- (iii) the Court, on further application of such applicant, may place him in possession of the property vested in him.

(9) An appeal from any order of a Court under this section shall lie to the Civil Appellate Court having jurisdiction to entertain such appeals.

(10) Nothing in this section shall take away the right of pre-emption conferred on any person by Muhammadan Law.

(11) Nothing in this section shall apply to—

- (a) a transfer to a co-sharer in the tenancy whose existing interest has accrued otherwise than by purchase, or
- (b) a transfer by exchange, sub-lease or partition, or
- (c) a transfer by bequest or gift (including *heba* but excluding *heba-bil-ewaz* for any pecuniary consideration) in favour of the husband or wife of the testator or the donor or of any relation by consanguinity within three *degrees* of the testator or donor, or

(Sections 25—28.)

- (d) a wakf in accordance with the provisions of the Muhammadan Law, or
- (e) a debottor or any other dedication⁷ for religious or charitable purposes without any⁷ reservation of pecuniary benefit for any individual.

Explanation.—A relation by consanguinity shall for the purposes of this sub-section, include a son adopted under the Hindu Law.

Saving as to statements in instruments of transfer where landlord is not a party.

25. Notwithstanding anything contained in the 1 of 1872. [Evidence Act], 1872, nothing contained in any instrument of transfer to which the landlord is not a party shall be evidence against the landlord of [the permanence, the amount or fixity of rent, the area, [the transferability or any incident⁷ of any tenancy referred⁷ to in such instrument.

Interpretation.

26. (1) In this Chapter “transfer⁷”, “purchaser” and “mortgagee” include their⁷ successors-in-interest.

(2) In section 23,—

- (a) “transfer” does⁷ not include partition or a sub-lease or until, a⁷ decree⁷ or⁷ order absolute for foreclosure is made, simple or usufructuary mortgage or mortgage by conditional sale;
- (b) “transferor” includes a person⁷ whose⁷ interest in any non-agricultural land or⁷ portion or⁷ share thereof has terminated in the circumstances mentioned in sub-section (2) or sub-section (3) of that section.

CHAPTER VI.

Record-of-rights and settlement of rents.

Power to order survey and preparation of record-of-rights.

27. The Provincial Government may in any case and in particular, in any of the cases specified in sub-section (2) of section 101 of the Bengal Tenancy Act, 1885, if it thinks fit, make an order directing that a survey be made and a record-of-rights be prepared by a Revenue-officer in respect VIII of 1885. of all non-agricultural lands in any local area, estate or tenure or part thereof whether or not the said Act extends to such area, estate, tenure or part.

Applicability of the provisions of Chapter X of the Bengal Tenancy Act, 1885.

28. When an order under section 27 has been made,—

- (a) the particulars to be recorded shall be specified in the order and may include, either without or in addition to other particulars, any of those particulars specified in section 102 of the Bengal VIII of 1885. Tenancy Act, 1885;

⁷The words within square brackets were substituted for the word ‘Indian Evidence Act’ by E. P. Ord. XXVIII of 1960, First Schedule.

of 1949.]

(Sections 29, 30.)

- (b) subject to any rules made under this Act, all the provisions of Chapter X of the Bengal Tenancy Act, 1885, and the rules made thereunder shall in so far as they are not inconsistent with the provisions of this Act, apply as if such order is an order made under section 101 of the said Act in respect of lands used for purposes connected with agriculture or horticulture.

29. When an order has been made under section 27 in respect of any local area, estate or tenure or part thereof of which a settlement of land revenue is being or is about to be made, the Provincial Government may make an order directing the Revenue-officer, after recording under section 28 those particulars which are relevant and after publication of the draft of the record-of-rights—

Order for estimate of fair and equitable rents of non-agricultural lands and preparation of a settlement rent-roll.

- (a) to estimate fair and equitable rents for non-agricultural tenants of every class in accordance with the provisions of this Act, and
- (b) to estimate the rental value for all or any non-agricultural lands which are held khas by a land lord,

in such local area, estate or tenure or part thereof, and then to prepare in the prescribed form and manner a settlement rent-roll in which the rents and rental values so estimated together with such other particulars as may be prescribed shall be specified.

30. Notwithstanding anything contained in the Bengal Tenancy Act, 1885, when an order has been made under section 29 directing a Revenue-officer to prepare a settlement rent-roll in respect of non-agricultural lands in any local area, estate or tenure or part thereof—

Procedure where both non-agricultural and other lands are concerned.

- (a) the rents of such non-agricultural lands shall not be settled under Part II of Chapter X of the said Act; and
- (b) where any of such non-agricultural lands are comprised in a tenancy which includes lands other than non-agricultural lands, the Revenue-officer shall—
- (i) divide the tenancy so as to constitute separate tenancies for the non-agricultural lands and the other lands ;
- (ii) apportion the existing rent between the tenancies so constituted ; and

(Sections 31—33.)

- (iii) estimate fair and equitable rents for the non-agricultural lands in accordance with the provisions of this Act.

Publication of settlement rent-roll, hearing of objections and confirmation.

31. (1) When an order has been made under section 29 for the preparation of a settlement rent-roll the Revenue-officer shall prepare such rent-roll in accordance with the provisions of this Chapter and shall cause a draft of it to be published in the prescribed manner and for the prescribed period and shall receive and consider any objections made in regard to any entry therein or omission therefrom during the period of publication and shall dispose of such objections according to such rules as the Provincial Government may make.

(2) The Revenue-officer may, of his own motion or on the application of any party aggrieved, at any time before a settlement rent-roll is submitted to the confirming authority under section 32, revise any entry therein:

Provided that no such entry shall be revised until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

Final revision of settlement rent-roll and its confirmation by prescribed Revenue authority.

32. (1) When all objections have been disposed of under section 31, the Revenue-officer shall submit the settlement rent-roll to the prescribed Revenue authority for confirmation with a full statement of the grounds for his proposals and a summary of the objections (if any) which he has received.

(2) Such authority may confirm the settlement rent-roll with or without amendment or may return it for revision :

Provided that no entry shall be amended or omission supplied until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

(3) After confirmation by such authority the Revenue-officer shall cause the date of confirmation to be published in the prescribed manner and thereafter the settlement rent-roll shall be open to inspection at such place and times as may be prescribed.

Appeals.

33. (1) Any person who is aggrieved by any entry in or omission from a settlement rent-roll confirmed under section 32 may appeal to the prescribed Revenue authority and from the decision of such authority to the Board of Revenue in the manner and within the period prescribed in this behalf.

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(Section 34.)

(2) No Civil Court shall annul or alter any decision of a Revenue-officer, a Revenue authority or the Board of Revenue under section 30 or section 31 or section 32 or sub-section (1) of this section except as provided in section 34.

34. (1) Any person who is aggrieved by any entry in or omission from a settlement rent-roll confirmed under section 32 may institute a suit in the Civil Court which would have jurisdiction to entertain a suit for the possession of the land to which the entry relates or in respect of which the omission was made. Suits.

(2) Such suit shall be instituted within six months from the date of confirmation of the settlement rent-roll or from the date of the certificate of final publication of the record-of-rights, whichever is later, or, if an appeal has been presented under section 33 within three months from the date of the disposal of such appeal.

(3) Such suit may be instituted on any of the following grounds and on no other ground, namely :—

- (a) that the land is not liable to the payment of rent;
- (b) that the land although entered in the record-of-rights as being held rent-free is liable to the payment of rent;
- (c) that the relation of landlord and tenant does not exist;
- (d) that in the record-of-rights the land has been wrongly recorded as part of a particular estate or tenancy or wrongly omitted from the lands of any estate or tenancy;
- (e) that in the record-of-rights there has been any omission of an under-tenant or such under-tenant has been wrongly recorded as holding the land rent-free;
- (f) that in the record-of-rights the special conditions and incidents of the tenancy have not been recorded or have been wrongly recorded;
- (g) that in the record-of-rights any right of way or other easement attached to the land has not been recorded or has been wrongly recorded;

(Sections 35—39.)

(h) that the land has been wrongly recorded in the settlement rent-roll as non-agricultural land; and

(i) that there has been an omission to estimate fair and equitable rents in respect of any land under this Act.

(4) When a Civil Court has passed final orders or a decree under this section it shall notify the same to the Collector.

Notification of order under section 27 or section 29 to be conclusive evidence.

35. A notification in the *Official Gazette* of an order under section 27 or of an order under section 29 shall be conclusive evidence that the order has been duly made.

Presumption of rents settled under sections 30 to 33.

36. Subject to the provisions of section 34 all rents entered in a settlement rent-roll confirmed under section 32 or settled under section 33 shall be deemed to have been correctly settled and to be fair and equitable rents within the meaning of this Act.

Correction of settlement rent-roll.

37. The Revenue-officer may at any time correct any *bona fide* clerical mistake in or omission from the settlement rent-roll and shall make such alterations in the same as may be necessary to give effect to any decision under sub-section (1) of section 33 or section 34.

Settlement of rents in respect of non-agricultural lands by Revenue-officers in the case where a settlement of land revenue is not being or is not about to be made.

38. Where an order has been made under section 27 for the preparation of a record-of-rights in respect of all non-agricultural lands in any local area, estate or tenure or part thereof of which a settlement of land revenue is not being made or is not about to be made, the Revenue-officer shall, in settling the rent of such non-agricultural lands under sections 105 and 105A of the Bengal Tenancy Act, 1885, have regard to the provisions of this Act as to the determination of a fair and equitable rent and to such rules as may be made in this behalf under this Act.

VIII of 1885.

Stay of proceedings in Civil Court during preparation of record-of-rights under section 27.

39. When an order has been made under section 27 directing the preparation of a record-of-rights, then, subject to the provisions of section 34, a Civil Court shall not,—

(a) where a settlement of land revenue is being or is about to be made—until after the final publication of the record-of-rights, and

(b) where a settlement of land revenue is not being made or is not about to be made—until four

of 1949.]

(Sections 40—43.)

months after the final publication of the record-of-rights,

entertain any suit or application for the alteration of the rent or the determination of the status of any non-agricultural tenant in the area to which the record-of-rights applies.

VIII of
1885.

40. When a rent is settled by a Revenue-officer under this Chapter or under Chapter X of the Bengal Tenancy Act, 1885, after an order under section 27 has been made, such rent shall take effect from such date as may be fixed by the Revenue-officer.

Date from which settle rents take effect.

VIII of
1885.

41. (1) When the rent of the non-agricultural land comprised in a tenancy is settled under this Chapter or under Chapter X of the Bengal Tenancy Act, 1885, after an order under section 27 has been made, it shall not, except on the ground of a landlord's improvement or of a subsequent alteration in the area of such land, be enhanced, in the case where such land is held by a tenant or by an under-tenant having under section 22 the rights and liabilities of a tenant, for fifteen years, and in the case where such land is held by an under-tenant having no such right and liabilities, for five years; and no such rent shall be reduced within the period aforesaid save on the ground of alteration in the area of the non-agricultural land comprised within the tenancy.

Period for which rents as settled are to remain unaltered.

(2) The said period of fifteen years and five years shall be counted from the date on which the rent settled takes effect under this Chapter.

42. In this Chapter—

Interpretation.

- (a) "Revenue-officer" includes any officer whom the Provincial Government may appoint to discharge all or any of the functions of a Revenue-officer under that Chapter;
- (b) the term "settlement of land-revenue" includes a settlement of rent in an estate or tenure which belongs to the State.

CHAPTER VII.

General provisions as to rent of non-agricultural tenancies.

Payment of rent.

43. Subject to agreement, a money-rent payable by a non-agricultural tenant shall be paid yearly according to the Bengali year and shall fall due on the last day of the Bengali year in respect of which it is paid.

Rent to be paid yearly.

(Sections 44—46.)

Time and
place for
payment of
rent.

44. (1) Every non-agricultural tenant shall pay or tender the yearly rent before sunset of the day on which it falls due:

Provided that the non-agricultural tenant may pay or tender the rent payable for the year at any time during the year before it falls due.

(2) The payment or tender of rent may be made—

(i) at the landlord's local office or at such other convenient place as may be appointed in that behalf by the landlord; or

(ii) by postal money order in the manner prescribed.

A tender may also be made by depositing the rent in Court in accordance with the provisions of section 51.

(3) Where rent is sent by postal money order in the manner prescribed, the Court may presume until the contrary is proved that a tender has been made.

(4) When a landlord accepts rent sent by postal money order, the fact of this acceptance shall not be used in any way as evidence that he has admitted as correct any of the particulars set forth in the postal money order form.

(5) Any yearly rent or part of any yearly rent not duly paid at or before the time when it falls due shall be deemed to be an arrear.

Appropriation of payments.

45. (1) When a non-agricultural tenant makes a payment on account of rent, he may declare the year or years in respect of which he wishes the payment to be credited, and the payment shall be credited accordingly.

(2) If he does not make any such declaration, the payment may be credited to the account of such year or years as the landlord thinks fit.

Receipts and Accounts.

Non-agricultural tenant making payment to his landlord entitled to a receipt.

46. (1) Every non-agricultural tenant who makes a payment on account of rent to his landlord shall be entitled to obtain forthwith a written receipt for such payment either from such landlord, or, where the agent of such landlord has been authorised in writing by such landlord to issue and sign such receipts on behalf of such landlord, from such agent.

(Sections 47, 48.)

(2) The landlord or such agent, as the case may be, shall prepare and retain a counterfoil of the receipt.

(3) The receipt and counterfoil shall be in such form and shall specify such particulars as may be prescribed either generally or for any particular local area or class of cases.

(4) If a receipt does not contain substantially the particulars required by this section, it shall be presumed, until the contrary is shown, to be an acquittance in full of all demands for rent up to the date on which the receipt was given.

47. (1) Where a landlord admits that all rent payable by a non-agricultural tenant to the end of the Bengali year has been paid, the non-agricultural tenant shall be entitled to receive free of charge, within three months after the end of the year, a receipt in full discharge of all rent falling due to the end of the year either from the landlord, or, where the agent of such landlord has been authorised in writing to issue and sign such receipts on behalf of such landlord, from such agent.

Non-agricultural tenant entitled to full discharge or statement of account at close of year.

(2) Where the landlord does not so admit, the non-agricultural tenant shall be entitled, on paying a fee of four annas, to receive, within three months after the end of the year, a statement of account in such form and specifying such particulars as may be prescribed either generally or for any particular local area or class of cases.

(3) The landlord or such agent, as the case may be, shall prepare and retain a copy of the Statement containing similar particulars.

48. (1) If a landlord or his agent without reasonable cause refuses or neglects to deliver to a non-agricultural tenant a receipt in accordance with the provisions of section 46 for any rent paid by the non-agricultural tenant, such tenant may, within three months from the date of payment, institute a suit to recover from such landlord or agent, as the case may be, such penalty, not exceeding double the amount or value of that rent, as the Court thinks fit.

Penalties and fine for withholding receipts and statements of account and failing to keep counterfoils.

(2) If a landlord or his agent without reasonable cause refuses or neglects to deliver to a non-agricultural tenant demanding the same either the receipt in full discharge or, if the non-agricultural tenant is not entitled to such a receipt, the statement of account for any year required by section 47, such tenant may, within

(Section 48)

the next ensuing Bengali year, institute a suit to recover from such landlord or agent, as the case may be, such penalty as the Court thinks fit, not exceeding double the aggregate amount or value of all rent paid by such tenant to the landlord during the year for which the receipt or account should have been delivered.

(3) If a landlord or his agent, without reasonable cause, fails to deliver to the non-agricultural tenant a receipt or statement or to prepare and retain a counterfoil or copy of a receipt or statement, as required by either of the said sections, such landlord or agent, as the case may be, shall be liable to a fine not exceeding fifty rupees, to be imposed, after summary inquiry, by the Collector.

(4) The Collector may hold a summary inquiry under sub-section (3), either on information received from a Revenue-officer within one year, or upon complaint of the party aggrieved made within three months, from the date of failure, or upon the report of a Civil Court.

(5) Where, in any case instituted under sub-section (3), the Collector discharges any landlord or agent, and is satisfied that the complaint of the non-agricultural tenant on which the proceedings were instituted is false or vexatious, the Collector may, in his discretion, by his order of discharge, direct the non-agricultural tenant to pay to such landlord or agent such compensation not exceeding fifty rupees, as the Collector thinks fit.

(6) An appeal shall lie to the Commissioner of the Division against any order of the Collector imposing a fine under sub-section (3) or awarding compensation under sub-section (5); and the order passed by the Commissioner on such appeal shall, subject to any order which may be passed on revision by the Board of Revenue, be final.

(7) Any fine imposed or compensation awarded under this section may be recovered in the manner provided by any law for the time being in force for the recovery of a public demand.

(8) For the purpose of an inquiry under this section the Collector shall have power to summon and enforce the attendance of witnesses, and compel the production of documents in the same manner as is provided in the case of a Court under the Code of Civil Procedure, 1908.

Act V of
1908.

(9) The existence of a dispute as to the rent or area of a tenancy on account of which rent is paid shall not

(Sections 49—51.)

be deemed to be a reasonable cause for refusing, neglecting or otherwise failing to deliver—

- (a) a receipt for any amount actually paid on account of rent, or
- (b) the statement of account required by section 47, and the refusal of the non-agricultural tenant to accept the receipt shall not be deemed to be a reasonable cause for failing to prepare and retain a counterfoil of such receipt as required by section 46.

49. (1) The Provincial Government shall cause to be prepared and kept for sale to landlords at all sub-divisional offices forms of receipts with counterfoils and of statements of account suitable for use under sections 46 and 47.

Provincial Government to prepare forms of receipt and account.

(2) The forms may be sold in books with the leaves consecutively numbered or otherwise as the Provincial Government thinks fit.

50. Where rent is due to the proprietor, manager or mortgagee of an estate, the receipt of the person registered under the Land Registration Act, 1876, as proprietor, manager or mortgagee of that estate, or of his agent authorised in that behalf, shall be a sufficient discharge for the rent; and the non-agricultural tenant liable for the rent shall not be entitled to plead in defence to a claim by the person so registered that the rent is due to any third person :

Effect of receipt by registered proprietor, manager or mortgagee.

Ben. Act VII of 1876.

Provided that nothing in this section shall affect any remedy which any such third person may have against the registered proprietor, manager or mortgagee.

Deposit of rent.

51. (1) In any of the following cases, namely :—
- (a) when a non-agricultural tenant tenders money on account of rent and the landlord refuses to receive it or refuses to grant a receipt for it;
 - (b) when a non-agricultural tenant bound to pay money on account of rent has reason to believe, owing to a tender having been refused or a receipt withheld on a previous occasion, that the person to whom his rent is payable will not be willing to receive it and to grant him a receipt for it ;
- Application to deposit rent in Court.

(Section 51.)

- (c) when the rent is payable to co-sharers jointly and the non-agricultural tenant is unable to obtain the joint receipt of the co-sharers for the money and no person has been empowered to receive the rent on their behalf ; or
- (d) when the non-agricultural tenant entertains a *bona fide* doubt as to who is entitled to receive the rent ;

the non-agricultural tenant may present to the Court having jurisdiction to entertain a suit for the rent of his tenancy an application in writing for permission to deposit in the Court a sum not less than the amount of the money then due.

(2) The application shall—

(a) contain a statement of the grounds on which it is made ;

(b) state—

(i) in the cases referred to in clauses (a) and (b) of sub-section (1) the name of the person to whose credit the deposit is to be entered ;

(ii) in the case referred to in clause (c) of that sub-section, the names of the co-sharers to whom the rent is due, or of so many of them as the non-agricultural tenant may be able to specify ; and

(iii) in the case referred to in clause (d) of that sub-section, the names of the persons to whom the rent was last paid and of the persons or persons now claiming it ;

(c) be signed and verified in the manner provided in sub-rules (2) and (3) of rule 15 of Order VI in Schedule I to the Code of Civil Procedure, 1908, by the non-agricultural tenant, or, where he is not personally cognizant of the facts of the case, by some person so cognizant ; and

Act V of
1908.

(d) be accompanied, in the cases referred to in clauses (a) and (b) of sub-section (1) by the prescribed cost of transmission of the money deposited to the landlord and in the cases referred to in clauses (c) and (d) of that sub-section by a fee of the prescribed amount.

(Sections 52, 53.)

52. (1) If it appears to the Court to which an application is made under section 51 that the applicant is entitled under that section to deposit the rent, it shall receive the rent and give a receipt for it under the seal of the Court.

Receipt granted by Court for rent deposited to be a valid acquittance.

(2) A receipt given under this section shall operate as an acquittance for the amount of the rent payable by the non-agricultural tenant and deposited as aforesaid in the same manner and to the same extent as if that amount of rent had been received—

- (a) in the cases referred to in clauses (a) and (b) of sub-section (1) of section 51 by the person specified in the application as the person to whose credit the deposit was to be entered;
- (b) in the case referred to in clause (c) of that sub-section, by the co-sharers to whom the rent is due ; and
- (c) in the case referred to in clause (d) of that sub-section, by the person entitled to the rent.

53. The Court receiving a deposit—

Procedure for payment to the landlord of rent deposited.

- (i) in the case referred to in clause (a) or in clause (b) of sub-section (1) of section 51 shall forthwith forward the same by postal money-order to the address of the landlord, and
- (ii) in the case referred to in clause (c) or in clause (d) of that sub-section shall forthwith cause to be affixed in a conspicuous place at the Court-house a notification of the receipt thereof containing a statement of all material particulars, and if the amount of the deposit is not paid away under section 54 within the period of fifteen days next following the date on which the notification is so affixed, the Court shall forthwith in the case referred to in clause (c) of that sub-section cause a notice of the receipt of the deposit to be posted free of charge at the landlord's local office, if any, and in some conspicuous place in the village or town in which the non-agricultural land comprised within the tenancy or any portion thereof is situated, and in the case referred to in clause (d) of that sub-section cause a like notice to be served free of charge on every person who it has reason to believe claims, or is entitled to, the deposit.

(Sections 54—56.)

Payment or refund of deposit. 54. (1) The Court may pay the amount of the deposit notified under section 53 to any person appearing to it to be entitled to the same, or may, if it thinks fit, retain the amount pending the decision of a Civil Court as to the person so entitled.

(2) If no payment is made under clause (i) of section 53 or under sub-section (1) before the expiration of three years from the date on which a deposit is made, the amount deposited may, in the absence of any order of a Civil Court to the contrary, be repaid to the depositor upon his application and on his returning the receipt given by the Court with which the rent was deposited.

(3) No suit or other proceeding shall be instituted against the Provincial Government or against any officer of the Provincial Government in respect of anything done by a Court receiving a deposit under section 52 but nothing in this section shall prevent any person entitled to receive the amount of any such deposit from recovering the same from a person to whom it has been paid under this section.

Penalty for refusing to receive rent.

Penalty for refusing to receive rent tendered by postal money order or deposited. 55. If a landlord or his agent refuses without reasonable cause to receive payment of rent remitted by postal money-order or deposited in Court, the landlord shall be precluded from recovering, by suit, interest, costs or damages in respect of the same, and the Court may in addition award to the non-agricultural tenant damages not exceeding twelve and a half *per centum* on the whole amount claimed by the plaintiff.

The plea of the existence of any dispute as to the amount of rent of or the area of the land comprised in the tenancy shall not be deemed to be a reasonable cause under this section :

Provided that, when a landlord accepts rent, which has been deposited, or remitted by postal money-order, the fact of his acceptance shall not be used in any way as evidence that he has admitted as correct any of the particulars set forth in the application for permission to deposit or in the postal money-order form.

Arrears of rent.

Liability to sale for arrears. 56. A non-agricultural tenant shall not be liable to ejectment for arrears of rent, but his tenancy shall be liable to sale in execution of a decree for the rent thereof, and the rent shall be a first charge thereon.

(Sections 57—58A.)

57. (1) An arrear of rent shall bear simple interest at the rate of six and a quarter *per centum per annum* from the expiration of the Bengali year in which the rent falls due to the date of payment or of the institution of the suit, whichever date is earlier.

Interest on
arrears.

(2) Nothing in any contract between a landlord and a non-agricultural tenant made before or after the commencement of this Act shall affect the provisions of sub-section (1) relating to interest payable on arrears of rent.

58. (1) If, in any suit brought for the recovery of arrears of rent, it appears to the Court that the defendant has, without reasonable or probable cause, neglected or refused to pay the amount of rent due by him, the Court may award to the plaintiff, in addition to the amount decreed for rent and costs, such damages, not exceeding twelve and a half *per centum* on the amount of rent decreed, as it thinks fit :

Power to
award damages on rent withheld without reasonable cause, or to defendant improperly sued for rent.

Provided that interest shall not be decreed when damages are awarded under this section :

Provided also that where damages are awarded—

(i) the amount of such damages shall not be less than the interest accruing up to the date of the institution of the suit, and

(ii) interest on the arrear may be awarded from the date of the institution of the suit up to the date of payment at such rate as the Court directs.

(2) If, in any suit brought for the recovery of arrears of rent, it appears to the Court that the plaintiff has instituted the suit without reasonable or probable cause, the Court may award to the defendant, by way of damages, such sum, not exceeding twelve and a half *per centum* on the whole amount claimed by the plaintiff, as it thinks fit.

58A. (1) Notwithstanding anything contained in any other provisions of this Act or in any other law for the time being in force or in any contract the landlord shall be entitled to recover arrears of rent from the non-agricultural tenant from the year 1940 until the commencement of the Act, provided the suit be instituted for the recovery of the same within a year from the commencement of the Act.

Recovery of
arrears of
rent.

(2) The Court shall have the right to grant instalments for payment the period of which shall in no case exceed 5 years.

(Sections 59—62.)

Liability for rent on change of landlord or after transfer of tenancy.

Non-agricultural tenant not liable to transferee of landlord's interest for rent paid to former landlord without notice of the transfer.

59. (1) A non-agricultural tenant shall not, when his landlord's interest is transferred, be liable to the transferee for rent which became due after the transfer and was paid to the landlord whose interest was so transferred, unless the transferee has before the payment given notice in writing of the transfer to the non-agricultural tenant.

(2) Where there is more than one non agricultural tenant paying rent to the landlord whose interest is transferred, a general notice from the transferee to the non-agricultural tenants published in the prescribed manner shall be a sufficient notice for the purposes of this section.

Liability for rent before transfer of tenancies.

60. When a non-agricultural tenant transfers his tenancy in whole or in part, the transferor and transferee shall be jointly and severally liable to the landlord for arrears of rent due before the transfer :

Provided that the transferor shall not be liable to the landlord for such arrears of rent if the transferee has agreed to pay such arrears to the landlord and the fact has been mentioned in the instrument of transfer.

Illegal impositions.

Abwab, etc., illegal.

61. All impositions upon non-agricultural tenants under the denomination of abwab, mathat, or other like appellations, in addition to the actual rent, shall be illegal, and all stipulations and reservations for the payment of such impositions shall be void.

Fine for realisation of abwab, etc.

62. (1) If a landlord or his agent realises from a non-agricultural tenant any imposition declared under section 61 to be illegal, such landlord or agent, as the case may be, shall be liable to the same fine, to be imposed in the same manner, as in sub-section (3) of section 48, and the provisions of sub-sections (4), (7) and (8) of the said section relating to inquiry, fine and procedure shall, *mutatis mutandis* and so far as may be, apply to proceedings under this section.

(2) An appeal shall lie to the District Judge against an order imposing a fine under this section and the order passed by the District Judge on such appeal shall be final.

(3) The imposition of a fine on a landlord or landlord's agent under this section shall not operate as a bar to the institution of a suit under section 63.

(Sections 63—65.)

63. Every non-agricultural tenant from whom, except under any special enactment for the time being in force, any sum of money is exacted by his landlord in excess of the rent or interest lawfully payable, may within six months from the date of the exaction, institute a suit to recover from the landlord, in addition to the amount so exacted, such sum by way of penalty as the Court thinks fit, not exceeding two hundred rupees; or, when double the amount so exacted exceeds two hundred rupees, not exceeding double that amount.

Penalty for exaction by landlord from non-agricultural tenant of sum in excess of the rent payable.

CHAPTER VIII.

Improvements.

64. For the purposes of this Act the term “improvements” used with reference to a tenancy shall mean any work which adds to the value of the non-agricultural land comprised in the tenancy, which is suitable to such land and consistent with any of the purposes specified in section 4 for which it is being used and which, if not executed on such land, is either executed directly for its benefit, or is, after execution, made directly beneficial to it, and subject to the foregoing provisions, shall include the following, namely:—

Definition of “improvement”.

- (a) laying out of passages or roads,
- (b) providing open spaces for ventilation,
- (c) providing facilities for taking water,
- (d) laying out drainage connections,

but shall not include any work executed by a non-agricultural tenant if it substantially diminishes the value of his landlord's property.

65. (1) Subject to the provisions of sub-section (2), neither the non-agricultural tenant nor his landlord shall, as such, be entitled to prevent the other from making an improvement in respect of the tenancy.

Rights to make improvements.

(2) If both the non-agricultural tenant and his landlord wish to make the same improvement the non-agricultural tenant shall have the prior right to make it, unless it affects another tenancy or other tenancies under the same landlord.

(3) Any fee realised from non-agricultural tenant for permission to make any improvement in respect of his tenancy shall be deemed to be an abwab and the provisions of section 61 shall apply thereto.

(Sections 66—68.)

Collector to decide question as to right to make improvement, etc.

66. (1) If a question arises between the non-agricultural tenant and his landlord—

(a) as to the right to make an improvement, or

(b) as to whether a particular work is an improvement,

the Collector may, on the application of either party, decide the question.

(2) An appeal, if presented within thirty days from the date of the order appealed against, shall lie to the District Judge from every order passed by the Collector under sub-section (1) and the order passed by the District Judge on such appeal shall be final.

Registration of landlord's improvements.

67. (1) A landlord may, by application to such Revenue-officer as the Provincial Government may appoint in this behalf, register any improvement which he has lawfully made or which has been lawfully made wholly or partly at his expense or which he has assisted a non-agricultural tenant in making.

(2) Every such application shall be in the prescribed form and shall contain such particulars and shall be verified in such manner, by local enquiry or otherwise, as may be prescribed.

(3) The Revenue-officer receiving the application may reject it if it has not been made within twelve months,—

(a) in the case of improvements made before the commencement of this Act, from the commencement of this Act; and

(b) in the case of improvements made after the commencement of this Act, from the date of the completion of the work.

Application to record evidence as to improvement.

68. (1) If any non-agricultural tenant holding any non-agricultural land or his landlord desires that evidence relating to any improvement made in respect thereof be recorded, he may apply to the Revenue-officer to whom an application for the registration of such improvement may be made under sub-section (1) of section 67 and such Revenue-officer shall thereupon, at a time and place of which notice shall be given to the parties, record the evidence:

Provided that such Revenue-officer shall not so record the evidence if he considers that there were no reasonable grounds for the making of the application, or if it appears to him that the subject-matter thereof is under inquiry in a Civil Court.

(Sections 69—72.)

(2) When any matter has been recorded under this section, the record thereof shall be admissible in evidence in every subsequent proceeding between the landlord and the non-agricultural tenant or any persons claiming under them.

CHAPTER IX.

Other incidents of non-agricultural tenancies.

69. Where a tenancy is held by a non-agricultural tenant subject to the condition of employment in any industrial concern, such tenant shall, notwithstanding anything elsewhere contained in this Act, be liable to be ejected from the land comprised in such tenancy on the termination of such employment.

Eviction of non-agricultural tenants, holding tenancies conditional upon employment in industrial concern.

70. No Non-agricultural tenant shall be ejected from the tenancy or from any non-agricultural land which he holds except in execution of a decree of a competent Civil Court.

No ejection except in execution of decree.

71. The provisions of the Transfer of Property Act, 1882, and of any other law for the time being in force, in so far as they may be applicable and in so far as they are not inconsistent with the provisions of this Act shall continue to apply to all tenancies to which the provisions of this Act apply.

Application of the Transfer of Property Act, 1882, or other law.

[V of 1882.]

CHAPTER X.

Conversion of agricultural lands into non-agricultural tenancies.

72. (1) A tenant holding any land not being non-agricultural land which is situated within any area to which this Act extends or his landlord, may apply to the Collector for the conversion of such land into a tenancy to which the provisions of this Act apply and, on receipt of such application, the Collector shall, by order in writing, direct such conversion subject to payment of such rent not exceeding twice the rent for the time being payable for such land, as the Collector may fix:

Conversion of agricultural lands into non-agricultural tenancies in certain cases.

Provided that no landlord shall be entitled to apply under this sub-section except in the case where such land is being used by the tenant by whom it is held for any purpose not connected with agriculture or horticulture without the express or implied consent of the landlord:

(Section 72.)

Provided further that no order under this sub-section shall be passed without notice, the prescribed process-fee for which shall accompany the application,—

- (i) in the case where such application is made by a tenant, to the landlord or the entire body of landlords and to the co-sharer tenants, if any, and
- (ii) in the case where such application is made by a landlord, to the co-sharer landlords, if any, and to the tenant or if there be more than one tenant to all such tenants.

(2) Every order passed under sub-section (1) directing the conversion of any land which is not non-agricultural land into a tenancy to which the provisions of this Act apply shall state the date from which such conversion shall have effect and shall specify the rent which shall be payable in respect of the tenancy into which such land is converted and the rent so specified shall not be enhanced during a period of not less than fifteen years from the date of such order.

(3) An appeal shall lie to the Commissioner of the Division from any order of the Collector under this section if it is presented within thirty days from the date of such order and is accompanied by the prescribed fee and the decision of the Commissioner on such appeal shall be final.

(4) Notwithstanding anything contained in any other law for the time being in force or in any contract, where any land which is not non-agricultural land is converted into a tenancy to which the provisions of the Act apply by an order under this section such land shall with effect from the date on which such conversion takes effect become non-agricultural land and the non-agricultural tenant of such land shall for the purposes of this Act be deemed to have held it as such a tenancy with effect from the date on which such tenant or his predecessor-in-interest was first inducted into the land:

Provided that if such tenant acquired a right of occupancy in such land under the provisions of the Bengal Tenancy Act, 1885, or the Sylhet Tenancy Act, 1936, before such conversion, the tenancy comprising such land after such conversion shall, notwithstanding anything contained elsewhere in this Act, be deemed to be a tenancy to which the provisions of section 7 apply.

(Sections 73—76.)

CHAPTER XI.

Judicial Procedure.

73. In all areas for which a record-of-rights has been prepared in pursuance of an order made under section 27 and finally published, a Civil Court shall, in all suits between landlord and non-agricultural tenant as such, have regard to the entries in such record-of-rights relating to the subject-matter in dispute which may be produced before it, unless such entries have been proved by evidence to be incorrect; and, when a Civil Court passes a decree at variance with such entries, it shall record its reasons for so doing.

Regard to be had by Civil Courts to entries in record-of-rights.

74. Notwithstanding anything contained in rule 16 of Order XXI in Schedule I to the Code of Civil Procedure, 1908, an application for the execution of a decree for arrears in respect of any non-agricultural land obtained by a landlord shall not be made by an assignee of the decree unless the landlord's interest in the non-agricultural land has become and is vested in him.

Execution of decrees for arrears of rent by assignees of such decrees.

75. A suit for the ejectment of a non-agricultural tenant, on the ground that he has used the non-agricultural land in a manner which renders it unfit for use for any of the purposes specified in section 4, shall not be entertained unless the landlord has served in the prescribed manner, a notice in writing on the non-agricultural tenant—

Relief against forfeitures in certain cases.

(i) specifying the particular misuse complained of, and

(ii) if the misuse is capable of remedy, requiring the tenant to remedy the same,

and the tenant has, where the misuse is capable of remedy, failed within a reasonable time from the date of the service of the notice to remedy the misuse.

76. Where the interest of a non-agricultural tenant in any non-agricultural land is sold in execution of a decree or of a certificate signed under the Bengal Public Demands Recovery Act, 1913, for arrears of rent due in respect of such land, the purchaser shall take free from all encumbrances which may have been created by such non-agricultural tenant or his predecessor-in-interest and is subsisting immediately before the purchase takes effect, but subject to the interest of any under-tenant having under section 22 the rights and liabilities of a tenant.

Protection of the interest of an under-tenant having the rights and liabilities of a tenant in case of sale for arrears of rent.

(Sections 77—79.)

Delivery of possession of land sold for arrears of rent which has any structure erected on it by a non-agricultural tenant.

77. Where a non-agricultural tenant or his predecessor-in-interest has erected any structure on any non-agricultural land held by such tenant and such land is sold in execution of a decree or of a certificate signed under the Bengal Public Demands Recovery Act, 1913, for arrears of rent due in respect of such land, the purchaser shall be entitled to obtain delivery of possession of the land sold by the removal of such structure:

Ben. Act
III of
1913.

Provided that the judgment-debtor shall be allowed reasonable time by the Court to remove such structure from the property sold before the possession of such property is delivered to the purchaser:

Provided further that it shall be open to the purchaser to obtain possession of such land together with such structure on payment of such compensation for the value of such structure to the judgment-debtor as may be agreed upon between the purchaser and the judgment-debtor or, in the case where they do not agree, as may be determined by the Court on application by the purchaser, and, on payment of such compensation, the interest of the judgment-debtor in such structure shall vest absolutely in the purchaser.

Purchase of non-agricultural tenancy in execution of a decree for arrears of rent to take effect from the date of confirmation of the sale.

78. Notwithstanding anything contained in the Code of Civil Procedure, 1908, whenever the interest of any non-agricultural tenant in any non-agricultural land is sold in execution of a decree for arrears of rent and the sale is confirmed, the purchase shall take effect from the date of confirmation of the sale.

Act V
1908.

Rules for disposal of sale-proceeds.

79. (1) In disposing of the proceeds of a sale of the interest of a non-agricultural tenant in any non-agricultural land in execution of a decree for arrears of rent the following rules instead of those contained in section 73 of the Code of Civil Procedure, 1908, shall be observed, that is to say—

Act V
1908.

- (a) there shall first be paid to the decree-holder the costs incurred by him in bringing the tenancy to sale ;
- (b) there shall, in the next place, be paid to the decree-holder the amount due to him under the decree in execution of which the sale was made ;

of 1949.]

(Sections 80, 81.)

(c) if there remains a balance after these sums have been paid there shall be paid to the decree-holder therefrom the costs of application made under this section and any rent which may have fallen due to him in respect of the tenancy between the institution of the suit and the date of the confirmation of the sale;

(d) the balance (if any) remaining after the payment of the rent mentioned in clause (c) shall, upon the expiration of two months from the confirmation of the sale be paid to the judgment-debtor upon his application unless the Court, for reason to be recorded in writing, otherwise directs.

(2) If the judgment-debtor disputes the decree-holder's right to receive any sum on account of rent under clause (c) of sub-section (1), the Court shall determine the dispute, and the determination shall have the force of a decree.

80. (1) The provisions of rules 58 to 63 (both inclusive) of Order XXI in Schedule I to the Code of Civil Procedure, 1908, shall not apply to the interest of any non-agricultural tenant in any non-agricultural land attached in execution of a decree for arrears due thereon.

Release from attachment of non-agricultural tenancies on payment into Court of the amount of decree or on confession of satisfaction by the decree-holder.

(2) When an order for the sale of the interest of any non-agricultural tenant in any non-agricultural land in execution of such a decree has been made, the interest of such non-agricultural tenant in such land shall not be released from attachment unless, before it is knocked down to the auction-purchaser, the amount of the decree including the costs decreed together with the costs incurred in bringing such interest to sale is paid into Court, or the decree-holder makes an application for the release of such interest from such attachment on the ground that the decree has been satisfied out of Court.

(3) The judgment-debtor or any person whose interests are affected by the sale may pay money into Court under this section.

81. (1) When any person whose interests are affected by the sale of a tenancy of a non-agricultural tenant advertised for sale in execution of a decree for arrears of rent due in respect thereof or in execution of a certificate for arrears of rent due in respect thereof signed under the Bengal Public Demands Recovery Act, 1913, pays into the Court the amount requisite to prevent the sale—

Amount paid into Court to prevent sale to be a mortgage-debt on the tenancy in certain cases.

Ben. Act III 1913.

(a) the amount so paid by him shall be deemed to be a debt bearing interest at six and a quarter *per centum per annum* and secured by a mortgage of such tenancy to him;

(Sections 82, 83.)

(b) his mortgage shall take priority over every other charge on such tenancy other than a charge for arrears of rent; and

(c) he shall be entitled to possession of the tenancy as mortgagee of the non-agricultural tenant, and to retain possession of it as such until the debt, with the interest due thereon, has been discharged.

(2) Nothing in this section shall affect any other remedy to which any such person would be entitled.

Inferior tenant paying into Court may deduct from rent.

82. When a tenancy to which the provisions of this Act apply is advertised for sale—

(a) in execution of a decree for arrears of rent due in respect of such tenancy from a superior non-agricultural tenant defaulting, or

(b) in execution of a certificate signed under the Bengal Public Demands Recovery Act, 1913, for arrears of rent due in respect of such tenancy from a superior non-agricultural tenant defaulting, or

Ben. Act III of 1913.

when such sale is set aside under rule 89 of Order XXI in Schedule I to the Code of Civil Procedure, 1908, and an inferior non-agricultural tenant pays money into Court in order to prevent or set aside the sale, as the case may be, such inferior non-agricultural tenant may, in addition to any other remedy provided for him by law, deduct the whole or any portion of the amount so paid from any rent payable by him to his immediate landlord, and that landlord, if he is not the defaulter, may, in like manner, deduct the amount so deducted from any rent payable by him to his immediate landlord, and so on until the defaulter is reached.

Act V of 1908.

Decree-holder may bid at sale, judgment-debtor may not.

83. (1) Notwithstanding anything contained in rule 72 of Order XXI in Schedule I to the Code of Civil Procedure, 1908, the holder of a decree for arrears of rent in respect of a tenancy of a non-agricultural tenant in execution of which such tenancy is sold may, without the permission of the Court, bid for or purchase the tenancy.

Act V of 1908.

(2) The judgment-debtor shall not bid for or purchase a tenancy so sold.

(3) When a judgment-debtor purchases by himself or through another person a tenancy so sold, the Court may, if it thinks fit, on the application of the decree-holder or any other person interested in the sale, by order set aside the sale, and the costs of the application and order and any deficiency of price which may happen on the resale, and all expenses attending it shall be paid by the judgment-debtor.

(Sections 84—86.)

84. For the purpose of this Chapter the terms “arrears” and “arrears of rent” shall be deemed to include interest decreed under section 57 or damages awarded in lieu of interest under sub-section (1) of section 58. Meaning of “arrears” and “arrears of rent”.

CHAPTER XII.

Miscellaneous.

85. (1) Nothing in this Act shall apply to—

(a) any land vested in, or in the possession of—

(i) a port authority of a port, or

(ii) a railway administration, or

(iii) any local authority, or

(b) any lease in respect of any forest-rights or rights over fisheries or rights to minerals in any non-agricultural land, or

I of 1894. (c) any land acquired under the Land Acquisition Act, 1894, or under any other law, for the use of any Department of the Central or Provincial Government, or

(d) any other land in the possession of the Central or Provincial Government, or

(e) any land held under a public wakf or a trust for public purpose.

(2) Nothing in this Act shall apply to any non-agricultural land held by a tenant under the Central or Provincial Government :

Provided that the right vested in a tenant by the provisions of this Act shall not be divested by the acquisition of the superior right only in the land by the Government.

86. Nothing in any contract between a landlord and a non-agricultural tenant made before or after the commencement of this Act shall take away or limit the rights of such tenant as provided for by this Act, and any contract which is in contravention of the provisions of this section or which is inconsistent with, or purports to alter the effect of, any of the provisions of this Act, shall, to the extent of such contravention or inconsistency or to the extent it purports to alter such effect, be void and without effect. Certain contracts not to affect the provisions of the Act.

[E. B. Act XXIII]

(Sections 87—91.)

Jurisdiction in proceedings under this Act.

87. When under this Act a Court is authorised to make an order on the application of a landlord or a non-agricultural tenant, the application shall be made to the Civil Court which would have jurisdiction to entertain a suit for possession of the non-agricultural land comprised in the tenancy in connection with which the application is made.

Application of the provisions of the Act to all pending suits, appeals and proceedings and unexecuted decrees, for ejectment.

88. The provisions of this Act shall apply to all suits, appeals and proceedings including proceedings in execution for the ejectment of a non-agricultural tenant which are pending at the date of the commencement of this Act and also to all decrees passed for the ejectment of a non-agricultural tenant which have not been executed and are not barred by limitation and in respect of which no proceedings in execution are so pending, and the tenants against whom such suits, appeals or proceedings are so pending or such decrees have been passed shall not be liable to be ejected on any ground except under the provisions of this Act.

Saving of limitation.

89. In computing the period provided by any law for the time being in force for the execution of a decree for ejectment which was stayed under the Bengal Non-Agricultural Tenancy (Temporary Provisions) Act, 1940, or for the institution of a suit for the ejectment of a non-agricultural tenant, the period during which the said Act continued in force shall be excluded.

Ben. Act IX of 1940.

Calculation of the period of possession.

89A. In calculating for the purposes of this Act the period for which any non-agricultural land has been held by any non-agricultural tenant, the period for which such tenant has held such land while the Bengal Non-Agricultural Tenancy (Temporary Provisions) Act, 1940, has been in force shall be included.

Ben. Act IX of 1940.

Repeal of Bengal Act IX of 1940 and Assam Act X of 1947.

90. (1) The Bengal Non-Agricultural Tenancy (Temporary Provisions) Act, 1940, and the Sylhet Non-Agricultural Urban Areas Tenancy Act, 1947 are hereby repealed.

Ben. Act IX of 1940.

(2) All rents settled or orders issued, suits or other proceedings instituted and other things duly done under the Sylhet Non-Agricultural Urban Areas Tenancy Act, 1947, shall, in so far as they are consistent with the provisions of this Act, be deemed to have been respectively settled, issued, instituted or done hereunder.

Assam Act X of 1947.

Assam Act X of 1947.

Rules.

91. (1) The Provincial Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(Section 91.)

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

- (a) the manner in which the landlord or the tenant may apply to the Court under sub-section (2) of section 8 ;
- (b) the determination of a fair and equitable rent referred to in sub-section (3) of section 11 ;
- (c) the limit of enhancement of rent referred to in sub-section (1) of section 19 and the manner of determination of rent referred to in sub-section (2) of that section ;
- (d) the forms of the notices referred to in section 23, and the amount of the process-fees referred to in the said section ;
- (e) the manner of making a survey and preparing a record-of-rights in pursuance of an order under section 27 and the procedure to be followed and the powers to be exercised by Revenue-officers when an order under the said section is made ;
- (f) the form of a settlement rent-roll referred to in section 29, the manner of preparing the same and the particulars to be specified therein ;
- (g) the division of a tenancy and the apportionment of the rent under clause (b) of section 30 ;
- (h) the manner and period of publication of a draft settlement rent-roll under sub-section (1) of section 31 and the disposal of objections under that sub-section ;
- (i) the Revenue authority referred to in sub-section (1) of section 32 ;
- (j) the publication of the date of confirmation of a settlement rent-roll under sub-section (3) of section 32 and the place and times of inspection of such roll ;
- (k) the Revenue authority referred to in sub-section (1) of section 33, the manner of presentation of appeals to such authority and the Board of Revenue and the periods within which such appeals shall be presented under the said sub-section ;
- (l) the settlement of rents referred to in section 38 ;
- (m) the manner of payment or tender of rent by postal money-order under section 44 ;

[E. B. Act XXIII of 1949.]

(Section 91.)

- (n) the forms to be used generally or for any particular local area or class of cases for the receipt and counterfoil referred to in section 46 and for the statement of account referred to in sub-section (2) of section 47 and the particulars to be specified in such receipt, counterfoil and statement ;
- (o) the cost of transmission of the money deposited in the cases referred to in clauses (a) and (b) of sub-section (1) of section 51 and the amount of the fee referred to in clause (d) of sub-section (2) of that section ;
- (p) the manner of publication of the general notice referred to in sub-section (2) of section 59 ;
- (q) the form of, the particulars to be contained in and the manner of verification of, applications referred to in sub-section (2) of section 67 ;
- (r) the amount of process-fee referred to in the second proviso to sub-section (1) of section 72 and the amount of fee referred to in sub-section (3) of that section ;
- (s) the manner of service of notice issued, under this Act where the mode of such service is not provided in this Act.

East Bengal Act I of 1950.

THE BENGAL TENANCY (EAST BENGAL SECOND AMENDMENT) ACT, 1949.¹

[6th January 1950.]

An Act further to amend the Bengal Tenancy Act, 1885.

WHEREAS it is expedient further to amend the Bengal Tenancy Act, 1885, for the purpose and in the manner hereinafter appearing ;

Act VIII of
1885.

It is hereby enacted as follows:—

Short title
and com-
mence-
ment.

1. (1) This Act may be [called [the Bengal Tenancy (East Bengal Second Amendment) Act, 1949.

(2) It shall be deemed to have come into force on the eleventh day of July, 1949.

2. [Repealed by the East Pakistan Repealing and Amending Ordinance, 1960 (E. P. Ord. XXVIII of 1960), Second Schedule].

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 3rd December, 1949, Part IV A p.1026 ; for proceedings in the Assembly, see the proceedings of the meeting of the East Bengal Legislative Assembly held on the 19th December, 1949.

East Bengal Act II of 1950.

**THE BENGAL BORSTAL SCHOOLS (EXTENSION
TO SYLHET) ACT, 1949¹.**

[7th January, 1950.]

*An Act to extend the Bengal Borstal Schools Act, 1928,
to the district of Sylhet.*

WHEREAS it is expedient to extend the provisions of the
Bengal Borstal Schools Act, 1928, to the district of Sylhet ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Bengal Borstal
Schools (Extension to Sylhet) Act, 1949.

Short title
and com-
mencement.

(2) It shall come into force on the date of its publi-
cation in the *Official Gazette*.

2. Notwithstanding anything contained in any other
law for the time being in force, the Bengal Borstal Schools
Act, 1928, shall apply to the district of Sylhet.

Application
of Bengal
Act I of 1928
in the district
of Sylhet.

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 7th November, 1949, Pt. IVA, p.920 ; for proceedings in the Assembly, see the proceedings of the meeting of the East Bengal Legislative Assembly held on the 12th December, 1949.

East Bengal Act X of 1950.

**THE EAST BENGAL MINISTERS' AND SPEAKER'S
EMOLUMENTS ACT, 1950¹.**

[29th March, 1950.]

An Act to fix the salaries and allowances of the Governor's Council of Ministers ²[and of the Speaker of the East Bengal Legislative Assembly] and to provide them with suitable furnished houses free of rent.

WHEREAS it is expedient to fix the salaries and allowances of the Governor's Council of Ministers ²[and of the Speaker of the East Bengal Legislative Assembly] and to provide them with suitable furnished houses free of rent;

It is hereby enacted as follows:—

1. (1) This Act may be called the East Bengal Ministers' ³[and Speaker's] Emoluments Act, 1950. Short title
and com-
mencement.

(2) It shall be deemed to have come into force on the first day of January, 1948.

⁴[2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

- (a) 'Minister' means a Minister of the Governor of East Bengal;
- (b) 'residence' includes the staff quarters and other buildings appurtenant to and the gardens of, the residence;
- (c) 'maintenance' in relation to a residence includes the payment of local rates and taxes and the provision of electricity and water; and
- (d) 'prescribed' means prescribed by rules to be made by the Governor.]

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 11th March, 1950, Pt. IV A, pp. 163-164; for proceedings in the Assembly, see the proceedings of the meeting of the East Bengal Legislative Assembly held on the 13th March, 1950.

²The words within square brackets were inserted by the East Bengal Ministers' Emoluments (Amendment) Act, 1952 (East Bengal Act VIII of 1952), section 2.

³The words within square brackets were inserted by section 3, *ibid.*

⁴This section was substituted for the original section 2 by the East Bengal Ministers' Emoluments (Amendment) Act, 1952 (East Bengal Act VIII of 1952), section 4.

(Sections 3—6.)

Salaries.

3. There shall be paid a salary—

(a) to the Prime Minister at the rate of one thousand eight hundred rupees *per mensem*; and

(b) to each of the other Ministers at the rate of one thousand five hundred rupees *per mensem*.

Allowances.

4. In addition to the salaries referred to in section 3, there shall be paid—

(a) to the Prime Minister a sumptuary allowance at the rate of fifteen thousand rupees *per annum*; and

(b) to each of the Ministers including the Prime Minister a motor-car allowance at the rate of three hundred rupees *per mensem*:

Provided that if for any period exceeding thirty days a motor-car is made available to any Minister for his use at the expense of the Provincial Government, no motor-car allowance shall be payable under clause (b) to such Minister for such period.

Privileges.

¹[5. (1) Every Minister shall be entitled, without payment of rent, to the use of a residence, furnished in accordance with the prescribed scale, throughout his term of office and for a period of fifteen days immediately thereafter, and no charge shall fall on the Minister personally in respect of the maintenance of the residence.

(2) Every Minister shall be entitled to such further allowances and privileges as may be prescribed.]

Salary, allowances and privileges of the Speaker.

²[5A. The Speaker of the East Bengal Legislative Assembly shall be entitled to the same salary, allowances and privileges to which a Minister, other than the Prime Minister, is entitled under this Act and the rules made thereunder:

Provided that nothing in this section shall render recoverable from the Speaker any amount that he might have, prior to the first day of September, 1948, drawn, by virtue of any order of the Governor, as salary in excess of the rate admissible to him under this Act.]

Repeal of Bengal Act I of 1937.

6. The Bengal Ministers' Salaries Act, 1937, is hereby repealed.

Benga-
Act I
1937.

¹This section was substituted for the original section 5 by the East Bengal Ministers' Emoluments (Amendment) Act, 1952 (East Bengal Act VIII of 1952), section 5.

²This section was added by the East Bengal Ministers' Emoluments (Amendment) Act, 1952 (East Bengal Act VIII of 1952), section 6.

East Bengal Act XI of 1950.

THE FOREST (EXTENSION TO SYLHET) ACT, 1950¹.

[29th March, 1950.]

XVI of 1927. *An Act to extend the provisions of the Forest Act, 1927, to the district of Sylhet.*

XVI of 1927. WHEREAS it is expedient to extend the provisions of the Forest Act, 1927, to the district of Sylhet ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Forest (Extension to Sylhet) Act, 1950. **Short title and commencement.**

(2) It shall come into force on the date of its publication in the *Official Gazette*.

XVI of 1927. 2. Notwithstanding anything contained in any other law for the time being in force, the Forest Act, 1927, and all the rules framed thereunder, shall apply to the district of Sylhet. **Applicability of Act XVI of 1927 to the district of Sylhet.**

3. The Assam Forest Regulation, 1891, in its application to the district of Sylhet, is hereby repealed. **Repeal of Assam Regulation VII of 1891.**

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 8th December, 1949, Pt. IVA, p. 1028(b) ; for proceedings in the Assembly, see the proceedings of the meeting of the East Bengal Legislative Assembly held on the 27th February, 1950.

East Bengal Act XII of 1950.

THE BENGAL EXCISE (EXTENSION AND
AMENDMENT) ACT, 1950¹.

[29th March, 1950.]

*An Act to amend the Bengal Excise Act, 1909, and to
extend its provisions to the district of Sylhet.*

WHEREAS it is expedient to amend the Bengal Excise
Act, 1909, and to extend its provisions to the district of
Sylhet for the purposes and in the manner hereinafter
appearing ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Bengal Excise
(Extension and Amendment) Act, 1950.

Short title
and com-
mencement.

(2) It shall come into force on the first day of April,
1950.

2. to 9. [Repealed by the East Pakistan Repealing and
Amending Ordinance, 1960 (E. P. Ord. XXVIII of 1960),
Second Schedule].

10. Notwithstanding anything contained in any other
law for the time being in force, the Bengal Excise Act,
1909, shall apply to the district of Sylhet.

Application
of Bengal
Act V of
1909 to the
district of
Sylhet.
Repeal and
saving of
the Eastern
Bengal and
Assam Ex-
cise Act I
of 1910, and
Assam Act
IV of 1926.

11. (1) The Eastern Bengal and Assam Excise Act,
1910 and the Assam Temperance Act, 1926, in their appli-
cation to the district of Sylhet, are hereby repealed.

(2) The repeal of the Eastern Bengal and Assam Excise
Act, 1910 and the Assam Temperance Act, 1926, shall
not affect the validity, invalidity, effect or consequences
of anything already done or suffered or any action taken
or any proceeding started or any right, title, obligation or
liability already acquired, accrued or incurred thereunder.

(3) For the avoidance of doubt, it is hereby declared
that all actions taken and all proceedings commenced under
any provisions of the Eastern Bengal and Assam Excise
Act, 1910, shall continue in force and be dealt with by the
Excise Commissioner or the Excise Officers, as the case
may be, appointed under the Bengal Excise Act, 1909.

¹For Statement of Objects and Reasons, see *Dacca Gazette*,
Extraordinary, dated the 14th February, 1950, Pt. IVA, pp. 99-101;
for proceedings in the Assembly, see the proceedings of the meeting
of the East Bengal Legislative Assembly held on the 27th February,
1950.

East Bengal Act XVI of 1950.

THE EAST BENGAL FINANCE ACT, 1950¹.

[30th March, 1950.]

An Act to augment the revenues of ²[East Pakistan] and for that purpose to impose a tax on professions, trades, callings and employments.

WHEREAS it is necessary to augment the revenues of ²[East Pakistan] and for that purpose to impose a tax on professions, trades, callings and employments ;

It is hereby enacted as follows:—

1. (1) This Act may be called the East Bengal Finance Act, 1950.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of ²[East Pakistan].

(3) It shall come into force on the 1st day of April, 1950.

2. The following word shall, for the purposes of this Act, have the meaning hereby declared, save wherefrom the subject or context, a contrary intention appears:—

Definition.

“Prescribed” means prescribed by rules made by the Provincial Government under this Act.

3. (1) As from the first day of April, 1950, every person who, in the preceding financial year, was assessed to income-tax under the Income-tax Act, 1922, or tax under the Bengal Agricultural Income-tax Act, 1944, in respect of earnings of or income from any profession, trade, calling or employment, as the case may be, pursued either wholly or in part within this Province either by himself or by an agent or representative, shall be liable to pay for each financial year a tax in respect of any such profession, trade, calling or employment at the rate of thirty rupees, in addition to any tax, rate, duty or fee which he is liable to pay under any other enactment for the time being in force :

Imposition
of tax and
recovery in
default of
payment.

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 28th February, 1950, Pt. IVA, p.p. 141-143; for proceedings in the Assembly, see proceedings of the meeting of the East Bengal Legislative Assembly held on the 3rd March, 1950.

The Act was extended to the Chittagong Hill-tracts and those areas of the Mymensingh district which were called “partially excluded areas” immediately before the coming into force of the Constitution which was abrogated by the Presidential Proclamation of the 7th October, 1958, vide notification No. 459-F.T., dated the 30th March, 1950, published in *Dacca Gazette, Extraordinary*, dated the 30th March, 1950 Pt. I, p. 330

²The words within square brackets were substituted for the words “East Bengal” by E.P. Ord. XXVIII of 1960, First Schedule.

³Notwithstanding anything contained in sub-section (1) of section 3 of this Act, the tax payable under that sub-section for the Financial year covering the period from the 1st April to 30th June, 1959, shall be one fourth of the rate mentioned in that sub-section, vide the Financial Year (Transitional Provisions) Ordinance XX, 1959 (E. P. Ord. No. XLII of 1959), section 3, which shall be deemed to have come into force on the 1st day of April, 1959.

XI of
1922.
Ben. Act
IV of
1944.

(Sections 4—6.)

Provided that nothing in this sub-section shall authorise the levy of more than thirty rupees as tax payable by any person for any financial year.

(2) The time for and the manner of payment of the tax imposed under sub-section (1) and the authority by which such tax shall be collected shall be such as may be prescribed.

(3) If any tax payable under sub-section (1) is not paid within the time and in the manner prescribed under sub-section (2), any officer empowered by the Provincial Government in this behalf shall cause to be served on the defaulter in the prescribed form a notice of demand to pay such tax within thirty days of the service of such notice; and if payment is not so made, the tax and by way of penalty a sum not exceeding the amount of the tax shall be recoverable as an arrear of a public demand:

Provided that any such officer may remit the penalty wholly or in part if the tax is paid prior to the filing of a certificate under section 4 of the Bengal Public Demands Recovery Act, 1913.

Ben. Act
III of
1913.

Refund.

4. (1) Any person who has paid a tax or penalty under section 3 may, within such period as may be prescribed, apply to the officer referred to in sub-section (3) of section 3 for a refund of the tax or penalty paid or of any portion thereof on the ground that he was not liable to pay it.

(2) On receipt of an application under sub-section (1) such officer may call upon the applicant to give evidence or produce documents, as the case may be, in support of his claim.

(3) If the officer, after considering such evidence and documents, if any, as may be produced, is satisfied that the applicant is entitled to a refund, he shall direct that such refund be made in the manner prescribed.

Power to
compel at-
tendance for
giving evi-
dence and
to call for
documents.

5. For the purpose of any enquiry under section 4, the officer referred to in sub-section (3) of section 3 shall have power to summon and enforce the attendance of any person to give evidence or to compel the production of documents by the same means and, so far as may be, in the same manner as is provided in the Code of Civil Procedure, 1908.

V of
1908.

Power to
exempt from
or to remit
the tax.

6. The Provincial Government may prescribe the exemption of any person or class of persons from the operation of this Act, or the remission, in whole or in part, of the tax payable under this Act by any person or class of persons.

of 1950.]

(Sections 7—8.)

7. Any person aggrieved by any order passed under section 3 or 4 of this Act may, within thirty days from the date of its receipt by him, appeal to such officer as the Provincial Government may authorise in this behalf, who shall pass on such appeal such order as he may think fit, and such order shall be final.

8. (1) The Provincial Government may make rules for carrying out the purposes of this Act.

Power of
Provincial
Government
to make
rules.

(2) In particular and without prejudice to the generality of the foregoing power, the Provincial Government may make rules to provide for all or any of the following matters, namely:—

- (a) the time at which and the manner in which the tax payable under section 3 shall be paid ;
- (b) the form of notice to be served under sub-section (3) of section 3 ;
- (c) the period within which an application for refund may be made under sub-section (1) of section 4 and the manner in which such refund shall be made under sub-section (3) of that section ; and
- (d) the exemption from or remission of the whole or any portion of the tax under section 6.

East Bengal Act XVIII of 1950.

THE EAST BENGAL PROTECTION AND CONSERVATION OF FISH ACT, 1950¹.

[18th May, 1950.]

An Act to provide for the protection and conservation of fish in ²[East Pakistan].

WHEREAS it is expedient to provide for the protection and conservation of fishes in ²[East Pakistan];

It is hereby enacted as follows:—

1. (1) This Act may be called the East Bengal Protection and Conservation of Fish Act, 1950. Short title, extent and commencement.

(2) It extends to the whole of ²[East Pakistan].

(3) It shall come into force on such date³ as the Provincial Government may, by notification in the *Official Gazette*, appoint.

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

(1) “fish” includes a shell fish and a fish at all stages in its life history;

(2) “Fishery-officer” means any person whom the Provincial Government or any officer empowered by the Provincial Government in this behalf, may appoint to carry out all or any of the purposes of this Act or to do anything required by this Act or any rule made thereunder to be done by such officer:

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 14th April, 1948, Pt. IVA, p.4; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 12th, 19th and 22nd March, 1949 and 3rd March, 1950; for Report of the Select Committee, see *Dacca Gazette, Extraordinary*, dated the 24th November, 1949, Pt. IVA, pp. 931-942.

The Act was extended to the Chittagong Hill-tracts and those areas of the district of Mymensingh which were known as “partially excluded areas” immediately before the coming into force of the Constitution which was abrogated by the Presidential Proclamation of the 7th October, 1958, vide notification No. 303 Fish., dated the 10th January, 1951, published in *Dacca Gazette*, dated the 18th January, 1951, Pt. I, p. 60.

²The words within square brackets were substituted for the words “East Bengal” by E. P. Ord. XXVIII of 1960, First Schedule.

³The Act came into force with effect from the 29th June, 1950, vide notification No. 5459 Fish., dated the 22nd June, 1950 published in *Dacca Gazette*, dated the 29th June, 1950, Pt. I, p. 530 and in *Dacca Gazette*, dated the 15th March, 1951, Pt. I, p. 281.

(Section 3.)

Provided that no police-officer shall be so empowered;

(3) "fixed engine" means any net, cage, trap or other contrivance for catching fish, fixed in the earth or made stationary in any other way; and

(4) "private water" means a piece of water—

(a) which is primarily used for domestic purposes, and

(b) which is the exclusive property of any person, or in which any person has for the time being any exclusive right of fishery whether as owner or lessee, or any other capacity but does not include any river, canal, *khal*, *beel*, or any piece of water which ordinarily has direct communication with any river, canal, *khal* or *beel*.

**Power to
make rules.**

3. (1) The Provincial Government may make rules for the purposes hereinafter in this section mentioned.

(2) The Provincial Government may, by notification, apply such rules or any of them to any water or waters, provided that no such rules shall apply to any private water except with the consent in writing of the owner thereof and of all persons having for the time being any right of fishery therein.

(3) Such rules may—

(a) prohibit or regulate all or any of the following matters, that is to say,—

(i) the erection and use of fixed engines;

(ii) the construction, temporary or permanent, of weirs, dams, *bunds*, embankments and other structures;

(b) prohibit the destruction of, or any attempt to destroy, fishes by explosives, gun, bow and arrow in inland water or within coastal territorial waters;

(c) prohibit the destruction of, or any attempt to destroy, fishes by the poisoning of waters or the depletion of fisheries by pollution by trade effluents or otherwise;

(d) prescribe the seasons during which the killing or catching of fishes of any prescribed species shall be prohibited;

(e) prescribe a minimum size below which no fish of any prescribed species shall be killed or sold; and

(Sections 4, 5.)

- (f) prohibit all fishing in all waters or in any specified waters for a specified period:

Provided that the Provincial Government may for the purpose of pisciculture permit the catching of fishes in any closed season or in any prohibited water or below the prescribed minimum size and disposal thereof subject to the condition of the licence issued for the purpose.

(4) In making any rule under this section the Provincial Government may provide for—

- (a) the seizure, removal and forfeiture of any fixed engine or any other contrivance erected or used for fishing in contravention of the rules:

Provided that no fishing net shall be seized or forfeited unless the offence has been committed more than once; and

- (b) the forfeiture of any fishes taken by means of any such fixed engine or any other contrivance.

(5) The power to make rules is subject to the condition of previous publication; and the date to be specified under clause (3) of section 24 of the Bengal General Clauses Act, 1899, shall not be less than two months from the date on which the draft of the proposed rules was published.

(6) All such rules shall be published in the *Official Gazette* and shall, unless some later date is appointed, come into force on the date of such publication.

4. The Provincial Government may, by notification, prohibit for a specified period the offering or exposing or possession for sale or barter of fishes below the prescribed size of any prescribed species throughout the Province of '[East Pakistan]' or any part thereof.

Power to prohibit sale of fish.

5. (1) The breach of any rule made under section 3 or of any prohibition notified under section 4, shall be punishable with simple imprisonment for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

Penalties.

(2) Whoever, having been convicted of an offence under this Act or any rule made thereunder, is again convicted thereunder, shall, on every subsequent conviction, be punishable with fine which may extend to two hundred rupees, or with simple imprisonment which may extend to two months, or with both.

¹The words within square brackets were substituted for the words "East Bengal" by E. P. Ord. XXVIII of 1960, First Schedule.

(Sections 6—10.)

Arrest with-
out warrant
for offence
under the
Act.

6. (1) Any person, specially empowered by the Provincial Government in this behalf, may arrest without warrant any person committing a breach of any rule under section 3 or any prohibition notified under section 4—

(a) if the name and address of the person are unknown to him, and

(b) if the person declines to give his name and address or if there is reason to doubt the accuracy of the name and address, if given.

(2) A person arrested under this section may be detained until his name and address have been correctly ascertained:

Provided that no person so arrested shall be detained longer than may be necessary for bringing him before a Magistrate or to the nearest police-station according to the provisions of the Code of Criminal Procedure, 1898. Act V of 1898.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, it will be lawful for the officer-in-charge of a police-station to detain a person produced before him under the preceding sub-section till he is produced before the Magistrate. Act V of 1898.

(4) All Fishery-officers empowered by the Provincial Government shall have the same powers of search and investigation in respect of an offence under this Act as a police-officer of the rank of Sub-Inspector.

Cognizance
of offences.

7. (1) No Court inferior to that of a Magistrate of the second class shall try any offence under this Act.

(2) No Court shall take cognizance of any offence under this Act, except on the complaint of a fishery-officer or of a police-officer not below the rank of Sub-Inspector or of any other person or class of persons authorised by the Provincial Government in this behalf.

Officers to
be deemed
public ser-
vants.

8. All persons empowered to perform any functions under this Act shall be deemed to be public servants within the meaning of section 21 of the ¹[Pakistan Penal Code]. Act XLV of 1860

Indemnity.

9. No suit, prosecution or other legal proceeding shall lie against any person empowered to perform any function under this Act for anything which is in good faith done or intended to be done under this Act.

Repeal of
Act IV of
1897.

²[10. The Fisheries Act, 1897, in its application to East Pakistan is hereby repealed]. Act IV of 1897.

¹The words within square brackets were substituted for the words "Indian Penal Code" by E. P. Ord. XXVIII of 1960, First Schedule.

²Section 10 was substituted for the former section 10, *ibid*.

East Bengal Act XIX of 1950.

**THE EAST BENGAL ACQUISITION OF WASTE LAND
ACT, 1950¹.**

[18th May, 1950.]

*An Act to provide for the acquisition for public purposes of
waste land in ²[East Pakistan].*

HEREAS it is expedient to provide for the acquisition
for public purposes of waste land in ²[East Pakistan];

It is hereby enacted as follows:—

1. (1) This Act may be called the East Bengal Acquisition of Waste Land Act, 1950. Short title
and extent.

(2) It extends to the whole of ²[East Pakistan] except any area constituted a municipality under the provisions of the Bengal Municipal Act, 1932, or the Assam Municipal Act, 1923.

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

(1) "Collector" includes Deputy Commissioner and such other officers as may be authorised by the Provincial Government to perform all or any of the functions of a Collector under this Act;

(2) "waste land" means any land including marshy tracts, water courses, and jungle areas, which has not grown any crop for five consecutive years or more immediately preceding the date of publication of the notification under section 3 in respect of such land, but does not include—

(i) any land which has been acquired before such date or has been held from before such date for industrial or building purposes or for the purposes of trade or business;

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 15th December, 1949, Pt. IVA, p. 1041; for proceedings in the Assembly, see the proceedings of the meeting of the East Bengal Legislative Assembly held on the 9th February, 1950.

The Act was extended to those areas of the Mymensingh district which were known as "partially excluded areas" immediately before the coming into force of the Constitution which was abrogated by the Presidential Proclamation of the 7th October, 1958, vide notification No. 3494 L.R., dated the 17th May, 1950, published in *Dacca Gazette*, dated the 15th June, 1950, Pt. I, p. 493.

²The words within square brackets were substituted for the words "East Bengal" by E. P. Ord. XXVIII of 1960, First Schedule.

(Section 3.)

- (ii) any land which has been held from before such date for purposes connected with the cultivation or manufacture of tea;
- (iii) any land used for homestead purposes together with any garden appertaining to a homestead;
- (3) "person interested" includes all persons claiming an interest in compensation to be made on account of the acquisition of any land under this Act;
- (4) "public purpose" includes,—
 - (a) the production of food; or
 - (b) the afforestation of land; or
 - (c) the carrying out of irrigation or drainage schemes; or
 - (d) the provision of sites for the setting up of model villages; or
 - (e) the reclamation of land for bringing it under cultivation; or
 - (f) the settlement of land with any person or persons, in order to provide them with a means of livelihood or with holdings of an economic size or in order to enable such person or persons to carry on large scale farming on a co-operative basis or otherwise by the use of power-driven mechanical appliances;
- (5) "prescribed" means prescribed by rules made under this Act.

Publication of preliminary notification and powers of officers on the issue of such notification.

3. (1) Whenever it appears to the Provincial Government that any waste land (hereinafter in this Act referred to as land) is needed or is likely to be needed for any public purpose, a notification to that effect shall be published in the *Official Gazette*, and the Collector shall cause public notice of the substance of such notification to be given at convenient places on or near the land.

(2) Thereupon it shall be lawful for any officer either generally or specially authorised by the Provincial Government in this behalf, and for his servants and workmen,—

- (a) to enter upon and survey and take levels of the land;
- (b) to dig or bore into the sub-soil;
- (c) to do all other acts necessary to ascertain whether the land is adapted for such purpose;

(Sections 4, 5.)

- (d) to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon;
- (e) to mark such levels, boundaries and line by placing marks and cutting trenches;
- (f) and where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any fence or jungle.

4. (1) Any person interested in any land which has been notified under sub-section (1) of section 3, as being needed or likely to be needed for a public purpose, may, within fifteen days after the issue of the notification, object to the acquisition of the land. Objections.

(2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall, after giving the objector an opportunity of being heard and after making such inquiry, if any, as he thinks necessary, submit the case for the decision of the Provincial Government together with the record of the proceedings held by him and a report containing his recommendations on the objections. The decision of the Provincial Government on the objections shall be final.

(3) For the purpose of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act.

5. (1) When the Provincial Government is satisfied, after considering the report, if any, made under sub-section (2) of section 4, that the land is needed for a public purpose, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officers duly authorised to certify its orders. Declaration that land is required for a public purpose.

(2) The declaration shall be published in the *Official Gazette*, and shall state the district or other territorial division in which the land is situated, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose and after making such declaration, the Provincial Government may acquire the land in the manner hereinafter appearing.

(Sections 6—8.)

Order for acquisition.

6. Whenever any land shall have been so declared to be needed for a public purpose, the Provincial Government, or some officers authorised by the Provincial Government in this behalf, shall direct the Collector to take order for the acquisition of the land.

Notice to persons interested.

7. (1) The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Provincial Government intends to take possession of the land, and that claims to compensation for all interests in such land may be made to him.

(2) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, and their objections (if any) to the measurements of the land. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

(3) The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein as reside or have agents authorised to receive service on their behalf, within the district in which the land is situated.

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him at his last known residence, address or place of business.

Power to require and enforce the making of statements as to names and interests.

8. (1) The Collector may also require any such person to make or deliver to him, at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, tenureholder, mortgagee, tenant or otherwise, the nature of such interest and the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement.

(2) Every person required to make or deliver a statement under this section or section 7 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Pakistan Penal Code.

(Sections 9—12.)

9. At any time after the expiration of fifteen days from the publication of the notice mentioned in sub-section (1) of section 7, the Collector may take possession of the land, which shall thereupon vest absolutely in the Provincial Government free from all encumbrances.

Power to take possession.

10. (1) On the day fixed under sub-section (2) of section 7 or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given under section 7 to the measurements of the land and into the respective interests of the persons claiming the compensation and the amount and particulars of their claims, and shall make an award under his hand of—

Enquiry and award by Collector.

- (i) the true area of the land;
- (ii) the compensation which in his opinion should be allowed under section 12; and
- (iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

(2) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land the apportionment of the compensation among the persons interested.

(3) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

11. For the purpose of enquiries under this Act the Collector shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents by the same means, and so far as may be in the same manner, as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908.

Power to summon and enforce attendance of witnesses and production of documents.

Act V
of 1908.

12. In determining the amount of compensation the Collector shall be guided by the following provisions, namely:—

Principles of determining compensation.

- (a) if the land does not yield any income, the immediate owner of the land shall receive compensation at the rate of rupees ten per acre;

(Sections 13—15.)

- (b) if the land yields any income, the immediate owner of the land shall get compensation of an amount equivalent to five times the net annual income to be determined in the manner prescribed or ten times the annual rent paid by occupancy raiyats for an equal area of cultivated land in the neighbourhood which the Collector may select as being appropriate for the purpose, whichever is greater;
- (c) in either case, the superior landlords shall get compensation of an amount equivalent to ten times their respective net annual incomes from such land determined in the prescribed manner on the basis of the rental value of such land.

Apportionment of compensation.

13. (1) Where there are several persons interested, if such persons agree to the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

(2) When the amount of compensation has been settled under section 10, if any dispute arises as to the apportionment of the same or any part thereof or as to the persons to whom the same or any part thereof is payable, the Collector shall decide such dispute subject to rules made under this Act before making the award under sub-section (1) of that section.

Special powers in cases of urgency.

14. In cases of urgency, the Provincial Government may direct that the provisions of section 4 shall not apply, and, if it does so direct, a declaration may be made under section 5 in respect of the land at any time after the publication of the notification under sub-section (1) of section 3.

Appeal.

15. (1) Any person interested who has not accepted the award made by the Collector or the decision of the Collector regarding the amount of compensation payable under sub-section (2) of section 24 may, in the manner prescribed, prefer an appeal, within six weeks of the date of such award or decision, to the prescribed authority whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable or the apportionment of the compensation among the persons interested or the decision under sub-section (2) of section 24.

(2) The decision of the prescribed authority shall be final.

The East Bengal Acquisition of Waste Land Act, 1950.

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of 1950.]

(Sections 16—20.)

16. No Civil Court shall entertain any suit in respect of any matter arising out of any proceedings under this Act.

Bar to jurisdiction of Civil Courts.

17. When all appeals under section 15 against the award of the Collector have been disposed of, the decisions of the appellate authority together with the records of the cases shall be forwarded to the Collector who shall thereupon modify the award according to such decisions.

Modification of the award according to the decision of the appellate authority.

18. The compensation awarded shall be paid by the Collector subject to such rules as may be made in this behalf under this Act:

Payment of compensation.

Provided that nothing contained in this Act or in any rules made thereunder shall affect the liability of any person who may receive the whole or any part of any compensation awarded under this Act to pay the same to the person lawfully entitled thereto.

19. (1) If the land, in respect of which any money is awarded, belonged to any person who had no power to alienate the same, it shall be kept in deposit with the Collector and be invested in such manner as the Collector thinks fit; and the person or persons who would for the time being have been entitled to the possession of the said land shall be entitled to receive the interest or other proceeds arising from such investment and the said money shall remain so deposited and invested until the same be applied in payment to any person or persons becoming absolutely entitled thereto.

Investment of money awarded in respect of land belonging to person incompetent to alienate.

(2) In all cases of moneys deposited to which this section applies, the cost of such investment including all reasonable charges and expenses incidental thereto and such other costs as may be prescribed shall be paid by the Collector.

20. When the amount of compensation awarded is not paid, or is not deposited under sub-section (1) of section 19, on or before the date on which possession is taken of the land, the Collector shall when paying or depositing such amount also pay or deposit, as the case may be, interest thereon at the rate of three *per centum per annum* from such date until the date on which such amount is paid or so deposited:

Payment of interest.

Provided that such interest shall not be payable in the case where the persons entitled to the amount of compensation do not consent to receive it or where there is any dispute as to the title to receive it or as to its apportionment.

(Sections 21—27.)

Service of notices. **21.** The service of any notice under this Act shall be made in the manner prescribed.

Penalty for obstructing acquisition of land. **22.** Whoever wilfully obstructs any person in doing any of the acts authorised by section 3 or wilfully fills up, destroys, damages or displaces any trench or mark made under section 3, shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month, or to a fine not exceeding fifty rupees or to both.

Magistrate to enforce surrender. **23.** If the Collector is opposed or impeded in taking possession under this Act of any land, he shall, if a Magistrate, enforce the surrender of the land to himself, and if not a Magistrate, he shall apply to a Magistrate and such Magistrate shall enforce the surrender of the land to the Collector.

Completion of acquisition not compulsory. **24.** (1) The Provincial Government shall be at liberty to withdraw at any time from the acquisition of any land, before the award has been made under section 10.

(2) Whenever the Provincial Government withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damages, if any, suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.

Exemption from stamp-duty and fees. **25.** No award made under this Act shall be chargeable with stamp-duty, and no person claiming under any such award shall be liable to pay any fee for a copy of the same.

Protection of action taken under the Act. **26.** (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

(2) Save as otherwise expressly provided under this Act, no suit or other legal proceeding shall lie against the Provincial Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

Power to make rules. **27.** (1) The Provincial Government may make rules for carrying out the purposes of this Act.

(Section 27.)

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the determination of net annual income under clauses (b) and (c) of section 12;
- (b) the decision of disputes under sub-section (2) of section 13 as to the apportionment of compensation;
- (c) the manner of preferring appeals under section 15, and the authority to whom such appeals are to be preferred;
- (d) the payment of compensation referred to in section 18;
- (e) the costs other than the costs of investment of the compensation money referred to in sub-section (2) of section 19;
- (f) the manner of service of notices under this Act.

East Bengal Act XX of 1950.

THE EAST BENGAL MATERNITY BENEFIT (TEA ESTATES) ACT, 1950¹.

[22nd May, 1950.]

An Act to regulate the employment of women in tea factories and plantations for certain periods before and after child-birth and to provide for the payment of maternity benefit to them.

WHEREAS it is expedient to regulate the employment of women in tea factories and plantations for certain periods before and after child-birth and to provide for the payment of maternity benefit to them;

It is hereby enacted as follows:—

1. (1) This Act may be called the East Bengal Maternity Benefit (Tea Estates) Act, 1950.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of ²[East Pakistan].

(3) It shall come into force on such date³ as the Provincial Government may, by notification in the *Official Gazette*, direct.

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

Definitions.

(a) “child” includes a still-born child;

(b) “employer” includes the occupier and the manager of a plantation or a factory;

(c) “expected day of her delivery” means the expected day of delivery of a woman as determined by the medical practitioner referred to in sub-section (1) of section 6;

(d) “factory” means—

(i) a factory, as defined in clause (j) of section 2 of the Factories Act, 1934, or

XXV of
1934.

¹For Statement of Objects and Reasons, see *Dacca Gazette*, Extraordinary, dated the 7th June, 1949, Pt. IVA, p. 426; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 27th February, 1950.

The Act was extended to the Chittagong Hill-tracts, vide notification No. 1920 Lab., dated the 28th December, 1950, published in *Dacca Gazette*, dated the 11th January, 1951, Pt. I p. 23.

²The words within square brackets were substituted for the words “East Bengal” by E. P. Ord. XXVIII of 1960, First Schedule.

³The Act came into force with effect from the 1st October, 1950, vide, notification No. 1195 Lab., dated the 30th September, 1950, published in *Dacca Gazette*, dated the 12th October, 1950, Pt. I, p. 827.

(Sections 3, 4.)

- (ii) a place declared to be a factory under sub-section (1) of section 5 of that Act, in which any process is carried on for the manufacture of tea or in which any process is carried on incidental to or connected with such manufacture;
- (e) "maternity benefit" means the sum of money payable in cash or kind under the provisions of this Act to a woman employed in a plantation or a factory;
- (f) "Nurse" includes a midwife or a trained *dhai* ;
- (g) "plantation" means any estate which is maintained for the purpose of growing tea [the plant *Camellia Thea (Linn)*] and in which 20 or more women are employed, or were employed on any day of the preceding twelve months, for that purpose and includes such plantation as may be declared to be so by the Provincial Government by notification in the *Official Gazette* with or without any condition which it may deem fit to impose;
- (h) "prescribed" means prescribed by rules made under this Act;
- (i) "woman" means a woman worker; and
- (j) expressions used, but not defined in this Act, have, where they have been defined in the Factories Act, 1934, the same meaning as in that Act.

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Employment of or work by women in factories prohibited during certain period.

3. After this Act comes into force—

- (1) no employer shall knowingly employ a woman in any factory or plantation during the six weeks immediately following the day of her delivery; and
- (2) no woman shall work in any factory or plantation during the six weeks immediately following the day of her delivery.

Right to, and liability for, payment of maternity benefit.

4. Subject to the provisions of this Act, every woman employed in a factory or a plantation shall be entitled to, and her employer shall be liable for, the payment of maternity benefit in respect of the period of six weeks preceding the expected day of her delivery and six weeks immediately following the day of her delivery:

. Provided that a woman shall not be entitled to such maternity benefit unless she has worked or has been an employee in any factory or plantation of the employer,

(Sections 5, 6.)

from whom she claims maternity benefit, for not less than one hundred and fifty days in the twelve months immediately preceding the expected day of her delivery:

Provided further that a woman shall not be entitled to such maternity benefit if she has not—

- (a) permitted herself to be medically examined as required in sub-section (1) of section 6, or
- (b) during the period which extends from the commencement of the six weeks immediately preceding the expected day of her delivery to the day of her delivery and during the six weeks immediately following the day of her delivery, attended or permitted herself to be treated in any clinic or hospital, or permitted herself to be treated by any medical practitioner or nurse as required in sub-section (2) of section 6:

Provided further that non-compliance by the woman with the provisions of sub-section (2) of section 6 before the day of her delivery shall not disentitle her to maternity benefit if the medical practitioner referred to in sub-section (3) of section 6 certifies that in his opinion such non-compliance was due to premature delivery or to a *bona fide* miscalculation on the part of the woman as to the state of advancement of her pregnancy.

5. The maternity benefit which is compulsorily payable under section 4 shall be payable at the rate of one rupee per day during the period of 12 weeks referred to in that section; and such payment shall be made either wholly in cash or partly in cash and partly in kind as may be prescribed.

Amount of maternity benefit.

6. (1) Every woman who claims or intends to claim maternity benefit from her employer under this Act shall permit herself to be medically examined by, or under the direction of, the medical practitioner referred to in sub-section (3) for the purpose of enabling him to determine the expected day of her delivery; and such medical practitioner shall, after such examination, furnish her with a certificate as to the expected day of her delivery.

Ante-natal and post-natal care of women.

(2) Every woman who claims or intends to claim maternity benefit from her employer under this Act shall, during the period which extends from the commencement of the 6 weeks immediately preceding the expected day of her delivery to the day of her delivery and during the 6 weeks immediately following the day of her delivery,—

- (a) where free ante-natal and post-natal treatment is provided for her in any hospital or clinic approved

(Sections 7, 8.)

in this behalf by the prescribed medical authority, attend such hospital or clinic as required by the medical officer-in-charge thereof and permit herself to be treated therein, or

- (b) where there is no such hospital or clinic, permit herself to be treated by such medical practitioner or nurse as is provided by her employer under sub-section (3).

(3) Every employer shall arrange that the services of a medical practitioner and a nurse, approved in this behalf by the prescribed medical authority, are always available in his factory or plantation for the purpose of giving free ante-natal and post-natal treatment or advice to the women of his factory or plantation:

Provided that no male medical practitioner shall examine any woman without being accompanied by a female nurse.

Amount of work which can be undertaken by a woman during ante-natal period.

7. Notwithstanding that a woman has given notice under sub-section (1) of section 8 that she expects to be confined within one and half month next following, she may, during the period which extends from the commencement of the six weeks immediately preceding the expected day of her delivery to the day of her delivery, undertake light work in the factory or plantation of the employer from whom she claims maternity benefit if and for so long as the medical practitioner referred to in sub-section (3) of section 6 certifies that she is physically fit so to do; and, for the days that she does such work, she shall be paid at the prevailing rate of pay for such work, and such pay shall be paid to her in addition to the maternity benefit which she may be entitled to receive under this Act.

Procedure regarding payment of maternity benefit.

8. (1) Any woman who claims or intends to claim maternity benefit under the provisions of this Act shall, on any day, give notice either orally in person or in writing to the employer of the factory or the plantation that she expects to be confined within one and half month next following and submit at the same time to such employer the certificate referred to in sub-section (1) of section 6 and may nominate in the prescribed form a person for purposes of section 9.

(2) When the notice and the certificate referred to in sub-section (1) are received, the employer shall permit the woman who has given the notice to absent herself from work in the factory or plantation on and from the day following that on which such notice and certificate are received until the expiration of 6 weeks after the day of her delivery.

(Section 9.)

(3) An employer shall pay the maternity benefit as provided in section 5 to a woman entitled thereto under this Act in eight equal weekly instalments; and the payment of the first instalment thereof shall be made within seven days of the giving of the notice together with the certificate referred to in sub-section (1) by such woman.

(4) If an employer is satisfied on the report of a medical practitioner or medical officer-in-charge of the clinic or hospital referred to in sub-section (2) of section 6 that a woman has ceased, according to the provisions of section 4, to be entitled to maternity benefit, such employer may discontinue the payment of maternity benefit payable to such woman under sub-section (3).

(5) Any woman who considers herself aggrieved at any cessation of payment of maternity benefit under sub-section (4) may, within thirty days of the date of payment of the last instalment of maternity benefit paid to her under sub-section (3), apply in the prescribed manner to the Inspector of Factories who, after giving both parties an opportunity of being heard, may reject the application, or direct the employer to pay to the woman the remaining portion of the maternity benefit, as he deems fit. An appeal from the decision of the Inspector of Factories shall, within thirty days thereof, lie in the prescribed manner to the Labour Commissioner whose decision shall be final.

9. (1) If a woman entitled to maternity benefit under this Act dies on the day of her delivery or during the period thereafter in respect of which she is entitled to the maternity benefit, the liability of the employer under section 4 shall not, by reason of her death, be discharged, and he shall pay the amount of maternity benefit due, if the newly-born child survives her, to the person who undertakes the care of the child; and, if the child does not survive her, the person nominated by her under sub-section (1) of section 8 or, if she has made no such nomination, to her next-of-kin as determined by the employer whose decision shall be final.

Payment of
maternity benefit in case
of the death
of a woman.

(2) If a woman dies during the period in respect of which she is entitled to maternity benefit but before giving birth to a child, the employer shall be liable only for the payment of half the amount of maternity benefit due under section 5. Any amount due at the death of the woman shall be paid to the person nominated by her under sub-section (1) of section 8, or, if she has made no such nomination, to her next-of-kin as may be determined by the employer whose decision shall be final.

(Sections 10—13.)

No notice of dismissal to be given to a woman in certain cases.

10. (1) When a woman absents herself from work in accordance with the provisions of this Act, it shall not be lawful for her employer to give her notice of dismissal during such absence or on such a day that the notice will expire during such absence.

(2) (a) No notice of dismissal given without sufficient cause by an employer to a woman within a period of six months before her delivery shall have the effect of depriving her of any maternity benefit to which, but for such notice, she may have become entitled under this Act.

(b) If any question arises as to whether any notice of dismissal is one to which clause (a) applies, such question shall be referred for decision to the Inspector of Factories in the prescribed manner. An appeal from the decision of the Inspector shall, within sixty days thereof, lie in the prescribed manner to the Labour Commissioner whose decision shall be final.

Penalty to women for doing work in contravention of the Act.

11. If a woman—

(a) after she has been permitted by her employer under sub-section (2) of section 8 to absent herself from work in a factory or plantation, does any work, other than that provided for under section 7, before the date of her delivery, or

(b) works in a factory or plantation or elsewhere during the 6 weeks immediately following the day of her delivery,

she shall be liable, on conviction, to a fine not exceeding twenty-five (25) rupees.

Penalty for contravention of the Act by an employer and application of fine in payment of compensation.

12. (1) If any employer contravenes any provision of this Act, he shall, on conviction, be liable to a fine which may extend to five hundred rupees.

(2) Whenever a Court imposes a fine under this section or confirms, in appeal, revision or otherwise, such a sentence, the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied in the payment of compensation to the woman concerned for any loss or damage caused to her by the contravention of a provision of this Act on account of which the fine has been imposed.

Cognizance of offences.

13. (1) No prosecution under this Act shall be instituted except by, or with the previous sanction of, the Inspector of Factories; and no such prosecution shall be instituted until the expiry of the period of appeal under sub-section (2), or, if such an appeal is preferred, unless the Labour Commissioner, by his order thereon sanction a prosecution

(Sections 14—16.)

(2) Where the Inspector of Factories decides either to institute a prosecution under this Act or to grant sanction thereto, he shall forthwith communicate his order to the person complained against, who may, within thirty days of the date of the said order, appeal in the prescribed manner to the Labour Commissioner against such decision. The decision of the Labour Commissioner on such appeal shall be final.

(3) No Court inferior to that of a Magistrate of the first class shall try any offence against this Act or any rules thereunder.

14. Where, on an application by an employer or a woman in such behalf, the Inspector of Factories refuses either to institute a prosecution under this Act or to grant previous sanction thereto, he shall without delay communicate to the applicant his order of refusal; and an employer or a woman aggrieved by such order may, within thirty days of the date thereof, appeal in the prescribed manner to the Labour Commissioner against such order. The decision of the Labour Commissioner on such appeal shall be final.

Appeal against refusal to prosecute or grant sanction thereto.

15. No Court shall take cognizance of any offence against this Act or any rule thereunder unless complaint thereof has been made to the Inspector of Factories within six months of the date on which the offence is alleged to have been committed.

Limitation of prosecution.

16. (1) The Provincial Government may make rules for the purpose of carrying into effect the provisions of this Act.

Rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the preparation and maintenance of a muster roll or register or a combined muster roll and register, and the particulars to be entered in such muster roll, register or combined muster roll and register or in the register kept or deemed to have been kept under section 41 of the Factories Act, 1934;
- (b) the inspection of factories for the purpose of this Act by the Inspector of Factories;
- (c) the exercise of powers and the performance of duties by Inspector of Factories or the medical authority referred to in section 6 for the purposes of this Act;

(Sections 17, 18.)

- (d) the method of payment of maternity benefit in so far as provision has not been made in this Act;
 - (e) the medical authority referred to in section 6;
 - (f) the form of nomination referred to in sub-section (1) of section 8; and
 - (g) the procedure to be observed—
 - (i) in submitting application to the Inspector of Factories and the disposal of appeals under sub-section (5) of section 8,
 - (ii) in referring questions for decision to the Inspector of Factories and the disposal of appeals under clause (b) of sub-section (2) of section 10, and
 - (iii) in the disposal of appeals under sub-section (2) of section 13 or section 14.
- (3) Any such rule may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.
- (4) The power to make rules under this Act shall be subject to the condition of previous publication.

Repeal of
Assam Act I
of 1944.

17. The Assam Maternity Benefit Act, 1944, is hereby repealed so far it applies to the district of Sylhet.

Assam
Act I ,
1944.

Abstract of
this Act and
the rules
thereunder
to be exhibi-
ted.

18. An abstract of the provisions of this Act and the rules thereunder in the local vernaculars shall be exhibited in a conspicuous manner by the employer in every section of a Tea Factory in which women are employed, and at least three prominent places in every plantation in which women are employed.

East Bengal Act II of 1951.

**THE BENGAL STATE AID TO INDUSTRIES
(EXTENSION TO SYLHET) ACT, 1951¹.**

[19th March, 1951.]

An Act to extend the provisions of the Bengal State Aid to Industries Act, 1931, to the district of Sylhet.

Ben. Act
III of
1931. WHEREAS it is expedient to extend the provisions of the Bengal State Aid to Industries Act, 1931, to the district of Sylhet;

It is hereby enacted as follows :—

1. This Act may be called the Bengal State Aid Short title.
to Industries (Extension to Sylhet) Act, 1951.

2. The Bengal State Aid to Industries Act, 1931, as amended from time to time, shall apply to the district of Sylhet with effect from the date on which the Bengal State Aid to Industries (Extension to Sylhet) Ordinance, 1950, by virtue of clause (a) of sub-section (2) of section 88 of the Government of India Act, 1935, ceases to operate.

East Ben-
gal Ordi-
nance IV
of 1950. Application
of Bengal
Act III of
1931 to the
district of
Sylhet.

¹For Statement of Objects and Reasons, *see Dacca Gazette, Extraordinary*, dated the 8th February, 1951, Pt. IVA, p. 108; for proceedings in the Assembly, *see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 15th and 24th February, 1951.*

East Bengal Act III of 1951.

**THE COURT FEES (EAST BENGAL AMENDMENT)
ACT, 1951¹.**

[27th March, 1951.]

An Act to amend the Court-fees Act, 1870.

VII of
1870.

WHEREAS it is expedient to amend the Court-fees Act 1870, for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. (1) This Act may be called the Court-fees (East Bengal Amendment) Act, 1951. Short title
and extent.

(2) It extends to the whole of ²[East Pakistan].

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

“receipt” means a receipt granted by an authorised person under the rules made under this Act.

3. to 8. [Repealed by the East Pakistan Repealing and Amending Ordinance, 1960 (E. P. Ord. XXVIII of 1960), Second Schedule].

¹For statement of Objects and Reasons, *see Dacca Gazette, Extraordinary*, dated the 17th February, 1951, p. 149; for proceedings in the Assembly, *see* the proceedings of the meetings of the East Bengal Legislative Assembly held on the 20th February, 1951.

²The words within square brackets were substituted for the words “East Bengal” by E. P. Ord. XXVIII of 1960, First Schedule.

East Bengal Act V of 1951.

THE CANALS (EXTENSION TO SYLHET) ACT, 1951¹.

[28th March, 1951.]

An Act to extend the provisions of the Canals Act, 1864, to the district of Sylhet.

WHEREAS it is expedient to extend the provisions of the Canals Act, 1864, to the district of Sylhet;

It is hereby enacted as follows :—

1. (1) This Act may be called the Canals (Extension to Sylhet) Act, 1951.

Short title and commencement.

(2) It shall come into force on the date of its publication in the *Official Gazette*.

2. Notwithstanding anything contained in any other law for the time being in force, the Canals Act, 1864, shall apply to the district of Sylhet.

Application of Bengal Act V to the district of Sylhet.

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 4th November, 1950, Pt. IVA, p. 598; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 15th and 24th February, 1951.

East Bengal Act XI of 1951.

**THE SYLHET (BOARD OF REVENUE FOR EAST
BENGAL'S JURISDICTION) ACT, 1951¹.**

[28th March, 1951.]

*An Act to extend the jurisdiction of the Board of Revenue for
 ²[East Pakistan] to the district of Sylhet.*

WHEREAS it is expedient to make provision for extending the jurisdiction of the Board of Revenue for ²[East Pakistan] to the district of Sylhet;

It is hereby enacted as follows :—

1. This Act may be called the Sylhet (Board of Revenue for East Bengal's Jurisdiction) Act, 1951.

Sen. Act
I of
1913.

2. The Board of Revenue for ²[East Pakistan] as constituted under the Bengal Board of Revenue Act, 1913, shall have and exercise, with regard to the district of Sylhet, all such jurisdiction and powers as are exercisable by the Board of Revenue under the laws for the time being in force in that district.

Jurisdiction
of the Board
of Revenue
for East
Pakistan over
the district
of Sylhet.

East Bengal
Ord.
No. X of
1950.

3. (1) The Sylhet (Board of Revenue for East Bengal's Jurisdiction) Ordinance, 1950, is hereby repealed.

Repeal and
saving.

(2) Any orders passed or appointments made or any notification issued or anything done or any action taken or any proceedings commenced under the provisions of the said Ordinance shall continue in force and be deemed to have been passed, made, issued, done, taken or commenced, as the case may be, under the provisions of this Act, as if this Act had commenced on the date of coming into force of that Ordinance.

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 16th January, 1951, Pt. IVA, p. 36; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 15th and 24th February, 1951.

²The words within square brackets were substituted for the words "East Bengal" by E. P. Ord. XXVIII of 1960, First Schedule.

East Bengal Act XII of 1951.

THE BENGAL NURSES (EAST BENGAL AMENDMENT)
ACT, 1951¹.

[5th April, 1951.]

Bengal Act X of 1934. *An Act to amend further the Bengal Nurses Act, 1934, and to extend it to the district of Sylhet.*

Bengal Act X of 1934. WHEREAS it is expedient to amend further the Bengal Nurses Act, 1934 (hereinafter referred to as the said Act), and to extend it to the district of Sylhet;

It is hereby enacted as follows :—

1. This Act may be called the Bengal Nurses (East Bengal Amendment) Act, 1951. Short title.

Bengal Act X of 1934. 2. (1) The Bengal Nurses Act, 1934, as amended from time to time, shall apply to the district of Sylhet. Application of Bengal Act X of 1934 to Sylhet, and

Assam Act II of 1944. (2) The Assam Nurses, Midwives and Health Visitors' Registration Act, 1944, is hereby repealed in so far it applies to the district of Sylhet. repeal of Assam Act II of 1944.

3. [Repealed by the East Pakistan Repealing and Amending Ordinance, 1960 (E. P. Ord. XXVIII of 1960), Second Schedule].

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 17th January, 1951, Pt. IVA, p. 44; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 15th and 24th February, 1951.

East Bengal Act XIII of 1951.

THE BENGAL MEDICAL (EXTENSION TO
SYLHET) ACT, 1951¹.

[5th April, 1951.]

An Act to extend the provisions of the Bengal Medical Act, 1914, to the district of Sylhet.

Bengal
Act VI of
1914.

WHEREAS it is expedient to extend the provisions of the Bengal Medical Act, 1914, to the district of Sylhet.

It is hereby enacted as follows:—

1. (1) This Act may be called the Bengal Medical (Extension to Sylhet) Act, 1951.

(2) It shall come into force on the date of its publication in the *Official Gazette*.

2. The Bengal Medical Act, 1914, as amended from time to time, shall apply to the district of Sylhet.

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 6th March, 1950, Pt. IVA, p. 156; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 15th and 24th February, 1951.

A
of
Act
1914
district
Sylhet.

East Bengal Act XV of 1951.

THE BENGAL AGRICULTURAL DEBTORS
(AMENDMENT) ACT, 1951¹.

[5th April, 1951.]

An Act to provide for certain amendments in the provisions of the Bengal Agricultural Debtors Act, 1935, as amended from time to time, in their application to the district of Sylhet.

Ben. Act VII of 1936. WHEREAS it is expedient to provide for certain amendments in the Bengal Agricultural Debtors Act, 1935, as amended from time to time, in their application to the district of Sylhet;

It is hereby enacted as follows:—

1. (1) This Act may be called the Bengal Agricultural Debtors (Amendment) Act, 1951. Short title and extent.

(2) It extends to the whole district of Sylhet.

2. The provisions of the Bengal Agricultural Debtors Act, 1935, as amended from time to time, in their application to the district of Sylhet, shall be read as follows:— Amendment of Bengal Act VII of 1936 in its application to the district of Sylhet.

(i) the expressions “incurred prior to the first day of January, 1940”, in clause (8) of section 2 and “on or after the first day of January, 1940, or” in clause (dd) of sub-section (1) of section 11 and in clause (ii) and clause (iii) of section 35 shall be *omitted*.

(ii) In sub-section (2) of section 37A, for the expression “within one year from the date of the commencement of the Bengal Agricultural Debtors (Amendment) Act, 1942” the expression “within three years from the date of commencement of the Bengal Agricultural Debtors (Extension to Sylhet) Act, 1949” shall be *substituted*.

(iii) The full-stop at the end of sub-section (1) of section 39, shall be *omitted* and the expression “or under section 37A” shall be *added*.

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 18th November, 1950, Pt. IVA, p. 626; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 15th and 24th February, 1951 and the 2nd March, 1951.

[E. B. Act XV of 1951.]

(Section 2)

(iv) For the expression "after the twelfth day of August, 1935" occurring in lines 2 and 3 of sub-section (1) of section 37A, the expression "after the 16th day of June, 1944" shall be *substituted*; and for the expression "on or after the 20th day of December, 1939" occurring in clause (c) of sub-section (1) of section 37A, the expression "on or after the 15th day of August, 1947" shall be *substituted*.

(v) After clause (vii) of sub-section (8) of section 2 the following new clause (viii) be *added*, namely:—

(viii) Any debt that has already been settled under the Assam Debt Conciliation Act, 1936.

Assam
Act X of
1936.

East Bengal Act XVI of 1951.

THE BENGAL OPIUM SMOKING (AMENDMENT
AND EXTENSION) ACT, 1951¹.

[5th April, 1951.]

32. *Act of* An Act to amend the Bengal Opium Smoking Act, 1932 and to extend its provisions to the district of Sylhet.

32. *Act of* WHEREAS it is expedient to amend the Bengal Opium Smoking Act, 1932, and to extend its provisions to the district of Sylhet for the purpose and in the manner herein-after appearing ;

It is hereby enacted as follows:—

1. This Act may be called the Bengal Opium Smoking Short title. (Amendment and Extension) Act, 1951.

2. The Bengal Opium Smoking Act, 1932 (hereinafter referred to as the said Act), shall, in its application to ²[East of Act. Pakistan], be amended in the manner hereinafter provided.

3. to 14. [Repealed by the East Pakistan Repealing and Amending Ordinance, 1960 (E. P. Ord. XXVIII of 1960), Second Schedule].

15. (1) The Bengal Opium Smoking Act, 1932, as amended by this Act, shall apply to the district of Sylhet.

(2) The Assam Opium Smoking Act, 1927, in its application to the district of Sylhet, is hereby repealed.

Application of Bengal Act X of 1932 to the district of Sylhet and repeal of Assam Act No. III of 1927.

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 19th February, 1951, Pt. IVA, p. 154; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 22nd February, and 1st March, 1951.

²The words within square brackets were substituted for the words "East Bengal" by E. P. Ord. XXVIII of 1960, First Schedule.

East Bengal Act XVIII of 1951.

THE BENGAL MUHAMMADAN MARRIAGES AND
DIVORCES REGISTRATION (EXTENSION TO
SYLHET) ACT, 1951¹.

[6th April, 1951.]

An Act to extend the provisions of the Bengal Muhammadan Marriages and Divorces Registration Act, 1876, as amended from time to time, to the district of Sylhet.

Ben. Act
of 1876. WHEREAS it is expedient to extend the provisions of the Bengal Muhammadan Marriages and Divorces Registration Act, 1876, as amended from time to time, to the district of Sylhet.

It is hereby enacted as follows :—

1. (1) This Act may be called the Bengal Muhammadan Marriages and Divorces Registration (Extension to Sylhet) Act, 1951. Short title and commencement.

(2) It shall be deemed to have come into force on the 1st day of October, 1947.

2. Notwithstanding anything contained in any other law for the time being in force, the Bengal Muhammadan Marriages and Divorces Registration Act, 1876, as amended from time to time, and all the rules framed thereunder, shall apply to district of Sylhet. Application of Bengal Act I of 1876 in the district of Sylhet.

3. The Assam Moslem Marriages and Divorces Registration Act, 1935, and the rules framed thereunder, from time to time, are hereby repealed. Repeal of Assam Act IX of 1935.

4. Anything done or any action taken by the Inspector-General of Registration,²[East Pakistan], relating to the Registration of Muhammadan Marriages and Divorces in the district of Sylhet on or from the 1st day of October, 1947, shall be deemed to have been done or taken under this Act, as if this Act was in operation when any such thing was done or such action was taken. Validity of action already taken.

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 25th May, 1950, Part IVA, page 460; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 15th and 24th February, 1951.

²The words within square brackets were substituted for the words "East Bengal" by E. P. Ord. XXVIII of 1960, First Schedule.

East Bengal Act XXII of 1951.

THE BENGAL WAKF (EXTENSION TO SYLHET)
ACT, 1951¹.

[14th April, 1951.]

*An Act to make provision for the proper administration of
Wakf property in the district of Sylhet.*

WHEREAS it is expedient to make provision for the proper
administration of Wakf property in the district of
Sylhet and to that end to extend the provisions of the
Bengal Wakf Act, 1934, to the said district, in the manner
hereinafter appearing;

Ben. Act
XIII of
1934.

It is hereby enacted as follows :—

1. (1) This Act may be called the Bengal Wakf (Extension to Sylhet) Act, 1951.

Short title,
extent and
commence-
ment.

(2) It extends to the district of Sylhet.

(3) It shall come into force on the date of its publication in the *Official Gazette*.

2. As from the 1st March, 1948 (hereinafter referred to as the said date),—

Application
of the Ben-
gal Wakf
Act, 1934,
and repeal
of the Mus-
salman Wakf
Act, 1923,
and East
Bengal Or-
dinance III
of 1950.

(a) the provisions of the Bengal Wakf Act, 1934 (hereinafter referred to as the said Act), as in force in the remainder of the Province of East Bengal on the said date, shall be deemed to have been applied to the district of Sylhet (hereinafter referred to as the said district) and shall be deemed to have been and shall be in force in the said district with effect from the said date;

XIII of
1923.

(b) the Mussalman Wakf Act, 1923, shall be deemed to have been repealed in its application to the said district ; and

E. Ben.
Ord. III
of 1950.

(c) the Bengal Wakf (Extension to Sylhet) Ordinance, 1950, is hereby repealed.

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 25th January 1951, part IVA, p. 54; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 15th and 24th February, 1951.

[E. B. Act XXII of 1951.]

(Sections 3, 4.)

Validation of
acts and
things done.

3. Anything done or any action taken by the Provincial Government, or by the Board of Wakfs, or by the Commissioner of Wakfs or by any mutawalli in relation to the said district, in the exercise or purported exercise of powers derived from the said Act on or after the said date, shall be as good and valid in law as if the said Act applied of its own force on the said date to the said district and no such Act or proceedings shall be called in question in any proceedings whatsoever on the ground that at any time on or after the said date, the said Act was not in force in the district of Sylhet.

Bar to suits.

4. No suit or other legal proceedings shall lie in any Court against the Provincial Government or the Board of Wakfs or the Commissioner of Wakfs or any mutawalli for or on account of or in respect of anything done or any action taken such as is mentioned in the last foregoing section.

East Bengal Act XXIII of 1951.

THE EAST BENGAL EVACUEE PROPERTY (RESTORATION OF POSSESSION) ACT, 1951¹.

[14th April, 1951.]

An Act to make provision regarding restoration of possession of immovable properties of evacuees in East Bengal.

WHEREAS it is expedient to make provision regarding restoration of possession of immovable properties of evacuees in East Bengal;

It is hereby enacted as follows:—

1. (1) This Act may be called the East Bengal Evacuee Property (Restoration of Possession) Act, 1951. Short title and extent.

(2) It extends to the whole of East Bengal.

²[(3) It shall be deemed to have come into force on the 28th March, 1951].

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

³[(a) “*bargadar*” means a person who, under the system generally known as *adhi*, *barga* or *bhag*, cultivates the land of another person on condition of delivering a share of the produce to that person;]

⁴[(a1)] “District Magistrate” includes Additional District Magistrate;

(b) “evacuee” means a person ordinarily resident in East Bengal, who, owing to communal disturbances, or fear thereof, leaves or has, on or

¹For Statement of Objects and Reasons, see *Dacca Gazette Extraordinary*, dated the 7th February, 1951; for Proceedings in the Assembly, see the Proceedings of the meetings of the East Bengal Legislative Assembly held on the 15th February, 1951, and the 2nd March, 1951.

²This sub-section was inserted by section 3 of the East Bengal Evacuee Property (Restoration of Possession) (Amendment) Act, 1951 (East Bengal Act XL of 1951).

³This clause was inserted by section 4, *ibid*.

⁴This clause originally numbered as clause (a) was renumbered as clause (a1) by section 4, *ibid*.

The Act was extended to those areas of the Mymensingh district which were known as “Partially Excluded Areas” immediately before the coming into force of the Constitution which was abrogated by the Presidential Proclamation of the 7th October, 1958, *vide* notification No. 3855L.R., dated the 14th April, 1951, published in *Dacca Gazette, Extraordinary*, dated the 14th April, 1951.

(Sections 3, 4.)

after the prescribed date, left East Bengal for any part of India and includes the legal heirs of such person;

(c) "Government" means the Government of East Bengal;

(d) "owner" includes tenant and lessees of all grades, but does not include a tenant-at-will in any urban area or a *bargadar*;

(e) "prescribed date"—

(i) in relation to any property in any urban area means the 1st January, 1950, and

(ii) in relation to any property outside any urban area means the 16th August, 1947;

(f) "property" means immovable property;

(g) "Subdivisional Magistrate" includes Additional Subdivisional Magistrate; and

(h) "urban area" means any area constituted a municipality under the provisions of the Bengal Municipal Act, 1932, or the Assam Municipal Act, 1923, and also such other areas as the Government may, by notification in the *Official Gazette*, declare to be urban areas for the purpose of this Act. Ben. Act XV of 1932. }
Assam Act I of 1923. }

Trespassers liable to eviction.

3. No person shall, notwithstanding anything contained to the contrary in any other law for the time being in force, have any right to occupy any property vacated by an evacuee who, as an owner, had been in actual possession of such property on or after the prescribed date, except with authority from such evacuee; and any person, who is in occupation of any such property without such authority, shall, subject to the provisions of this Act, be liable to be evicted therefrom.

Eviction of trespassers and restoration of possession to owners.

4. (1) An evacuee, who was, as an owner, in actual possession of any property on or after the prescribed date may, on his return to East Bengal, file an application on or before the 31st March, 1951, to the District Magistrate or the Subdivisional Magistrate of the area in which the property is situated for being restored to actual possession of the property.

(2) The applicant shall, in his application under subsection (1), make the statements and supply the particulars as below:—

(i) that he has returned to East Bengal on or before the 31st March, 1951;

(Section 5.)

- (ii) that the property is in occupation of a person without any authority from him;
- (iii) his own name and address and, as far as possible, those of the person in unauthorised occupation; and
- (iv) full particulars of the property of which he wishes to be restored to possession.

(3) On receipt of such application, the District Magistrate or the Subdivisional Magistrate ¹[shall], after making such summary enquiry as he thinks fit, cause the possession of such property to be delivered to the applicant and may use or cause to be used *force* for such purpose, if necessary.

5. (1) Notwithstanding anything contained in any other law for the time being in force or in any contract, if an evacuee was, as a tenant-at-will, in actual possession of any property in any urban area on or after the prescribed date and if on the date of the application under this section such property lies vacant or is in actual occupation of any person without any lawful authority from him or from the landlord, the evacuee shall, subject to the provisions of this Act, be entitled to be restored to actual possession of such property and may, on his return to East Bengal, file an application on or before the 31st March, 1951, for such restoration, to the District Magistrate or the Subdivisional Magistrate of the area in which such property is situated.

Special provisions regarding tenants-at-will.

(2) An application under sub-section (1) shall be deemed to be an application under sub-section (1) of section 4 and the provisions of sub-sections (2) and (3) of that section shall apply to such application.

²[(3) Notwithstanding anything contained in any other law for the time being in force or in any contract, an evacuee, who was, as a *bargadar*, in actual possession of any agricultural land on or after the prescribed date, shall, if he returned to East Bengal and filed an application for restoration of possession of such land on or before the 31st March, 1951, be deemed to be and to have been entitled to be restored to actual possession of that land as a *bargadar*—

- (i) as soon as possible after his return, if the land lies uncultivated at the time, or

¹This word was substituted for the word "may" occurring first in the sub-section by section 5 of the East Bengal Evacuee Property (Restoration of Possession) Amendment Act, 1951, (East Bengal Act XL of 1951.)

²This sub-section was inserted by section 6, *ibid*.

(Sections 6, 7.)

- (ii) at the beginning of the next crop season, if the land has already been cultivated, at the time of his return, by some other person, and, on such application of such evacuee, the District Magistrate or the Subdivisional Magistrate of the area in which such land is situated shall, if satisfied that the applicant is entitled to be restored to such possession, place or empower any officer subordinate to him to place the applicant in actual possession of such land, and such District Magistrate, Subdivisional Magistrate or officer, as the case may be, may use or cause to be used such force as may be necessary for the purpose.]

Provisions for rehabilitation where restoration is not feasible.

6. Notwithstanding anything contained in sections 4 and 5, where the District Magistrate or the Subdivisional Magistrate is of opinion that exceptional circumstances exist on account of which it will not be feasible to restore to an applicant possession of any property under those sections, the District Magistrate or the Subdivisional Magistrate shall report the case to the Government, and the Government shall thereupon refer the case to the Minority Commission constituted under Resolution No. 1458—P., dated the 24th April, 1950, for advice. The Government shall, after considering such advice, pass such order as it thinks fit, so, however, that if the Government is of the opinion that it will not be feasible to restore to the applicant possession of such property under the said sections, those sections shall not apply to such property, but the Government shall take such steps for the adequate rehabilitation of the applicant as it deems necessary.

Savings as to rights.

7. (1) An evacuee who is restored to actual possession of any property under the provisions of this Act shall have the same right, title and interest in the property as he had therein, and shall hold the property subject to the same terms and conditions under which he had held it, immediately before he vacated the property on or after the prescribed date :

Provided that if the evacuee had held such property, immediately before he vacated it on or after the prescribed date, on a temporary lease for a definite period, in calculating the period of such lease, the time from the date on which he so vacated the property to the date on which the possession of the property is so restored to him shall be excluded.

(2) Except as provided in this Act, nothing in this Act shall be construed to confer on any evacuee any right in any property which he does not otherwise possess.

The East Bengal Evacuee Property (Restoration of Possession) Act, 1951. 165

of 1951.]

(Sections 8—14.)

8. (1) No decree or order of a Civil Court or of the High Court and no order of a Revenue Court, passed between the prescribed date and the date of restoration of possession of property to the evacuee, with regard to possession of such property, which is the subject of an application under section 4 or section 5, shall affect the operations of the provisions of this Act or of any order passed thereunder.

Effect of the provisions of the Act on other laws.

(2) Nothing in this Act or in any other law for the time being in force shall in any way affect the right of any person to establish his title to any property in a competent Civil Court, or, after the evacuee has been restored to possession of such property, to execute any decree or order for possession of the same or to re-execute such decree or order if possession was already delivered in execution thereof within the period referred to in sub-section (1).

9. Any person acting under orders of the District Magistrate or the Subdivisional Magistrate or any officer empowered by them in carrying out any of the provisions of this Act shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code.

Act XLV of 1860.

Public servant

10. (1) No suit or other legal proceedings shall lie against the Government in respect of anything done in good faith under the provisions of this Act or the rules made thereunder.

Liability

(2) No suit, prosecution or other legal proceedings shall lie against any person for anything done in good faith under the provisions of this Act or the rules made thereunder.

11. Except as expressly provided for in this Act, no Civil Court or High Court shall call in question any order passed or any action taken under this Act.

Bar of jurisdiction of Civil Courts.

12. Nothing in this Act shall apply to any property acquired or requisitioned by the Government for the purposes of the Government or for any public purpose.

Act not to apply to acquired and requisitioned properties.

13. (1) The East Bengal Evacuee Property (Restoration of Possession) Ordinance, 1951, is hereby repealed.

East Bengal Ord. No. III of 1951.

Repeal and saving.

(2) Any orders passed or appointments made or any notification issued or anything done or any action taken or any proceedings commenced under any provision of the said Ordinance shall continue in force and be deemed to have been passed, made, issued, done, taken or commenced, as the case may be, under the corresponding provision of this Act, as if this Act had commenced on the date of coming into force of that Ordinance.

14. The Government may make rules for carrying out the purpose of this Act.

Power to make rules.

East Bengal Act XXIV of 1951.

THE EAST BENGAL EVACUEES (ADMINISTRATION OF IMMOVABLE PROPERTY) ACT, 1951.¹

[14th April, 1951.]

An Act to make provisions regarding administration, preservation and protection of immovable properties of evacuees in East Bengal and other matters relating to such properties.

WHEREAS it is expedient to make provisions regarding administration, preservation and protection of immovable properties of evacuees in East Bengal and other matters relating to such properties;

It is hereby enacted as follows:—

1. (1) This Act may be called the East Bengal Evacuees (Administration of Immovable Property) Act, 1951. Short title, extent and application.

(2) It extends to the whole of East Bengal.

(3) It shall not apply to any property acquired or requisitioned by the Government for the purposes of the Government or for any public purpose.

²[(4) It shall be deemed to have come into force on the 28th March, 1951].

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

(a) “Collector” means the Collector of a district and includes a Deputy Commissioner;

(b) “Committee” means the Evacuee Property Management Committee constituted under section 3;

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 7th February, 1951, Part IVA, p. 106; and for the proceedings of the Assembly, see the proceedings of the meeting of the East Bengal Legislative Assembly held on the 2nd March, 1951.

The Act was applied to those areas of the district of Mymensingh which were known as “Partially Excluded Areas” immediately before the coming into force of the Constitution which was abrogated by the Presidential Proclamation of the 7th October, 1958 with effect from the 14th April, 1951, by notification No. 3837L.R., dated the 14th April, 1951, published in *Dacca Gazette, Extraordinary*, dated the 14th April 1951.

²This sub-section was added by section 2 of the East Bengal Evacuees (Administration of Immovable Property) Amendment Act, 1951 (East Bengal Act XXXIX of 1951).

(Sections 3, 4.)

- (c) "evacuee" means a person ordinarily resident in East Bengal, who, owing to communal disturbances or fear thereof, leaves or has, after the 15th day of August, 1947, left East Bengal for any part of India, and includes the legal heirs of such person;
- (d) "Evacuee property" means any immovable property lying in East Bengal in which an evacuee has any right or interest, other than any property under the management of the Court of Wards under the Court of Wards Act, 1879; Ben. Act IX of 1879.
- (e) "Government" means the Government of East Bengal;
- (f) "owner" includes tenants and lessees of all grades;
- (g) "prescribed" means prescribed by rules made by the Government under this Act;
- (h) "property" means evacuee property; and
- (i) "urban area" means any area constituted a municipality under the provisions of the Bengal Municipal Act, 1932, or the Assam Municipal Act, 1923, and also such other areas as the Government may, by notification in the *Official Gazette*, declare to be urban areas for the purpose of this Act. Ben. Act XV of 1932. Assam Act I of 1923.

Constitution of the Committee.

3. (1) The Government may, by notification in the *Official Gazette*, constitute an Evacuee Property Management Committee for the Province of East Bengal.

(2) The Committee shall consist of a President and three other members.

(3) The President shall be an Officer of the Government who may, for the time being, be appointed in this behalf by the Government and the other members shall be selected and appointed by the Government from among the members of the minority community.

(4) The Committee shall be a body corporate by the name of "The East Bengal Evacuee Property Management Committee" and shall have perpetual succession and a common seal and shall by the said name sue and be sued.

Resignation and removal of members and filling of vacancies.

4. (1) A member of the Committee, other than the President, may, by writing under his hand, delivered to the prescribed officer of the Government, resign his office after giving one calendar month's notice of his intention to resign.

(Sections 5, 6.)

(2) The Government may at any time remove any member of the Committee on any of the following grounds, namely:—

- (a) that he has been convicted by a Criminal Court for any offence which, in the opinion of the Government, involves moral turpitude;
- (b) that he has applied to be adjudged or been adjudged an insolvent;
- (c) that he, in the opinion of the Government, is incompetent or incapable or unfit to perform the duties of his office on account of physical or mental infirmity;
- (d) that he, in the opinion of the Government, has been mismanaging the properties under the control of the Committee;
- (e) that he, in the opinion of the Government, habitually neglects to perform the duties of his office.

(3) In the event of any vacancy occurring in the office of the President or any other member of the Committee by death, resignation or removal, the Government shall fill the vacancy in the manner provided in sub-section (3) of section 3.

5. The Committee shall, subject to the provisions of this Act, have power to regulate its own procedure with the approval of the Government and may act notwithstanding any vacancy in the office of any member other than the President: Procedure of the Committee.

Provided that the President and one other member shall constitute the quorum for a meeting of the Committee.

6. (1) In the discharge of its duties, powers and functions, the Committee may be assisted by such Administrative Officers and other staff as the Committee may consider necessary and appoint: Officers of the Committee.

Provided that the appointment of the Administrative Officers shall be subject to the approval of the Government.

(2) An Administrative Officer shall, on appointment, furnish such security as may be fixed by the Committee.

(3) The area of jurisdiction of an Administrative Officer, shall be such as may be fixed by the Committee from time to time.

(Sections 7, 8.)

Remuneration of President, members and other Officers

7. (1) The members of the Committee, other than the President, shall not be entitled to any salary for acting as such, but the members including the President may receive such allowances as may be fixed by the Government.

(2) The remuneration of an Administrative Officer and of the other staff appointed by the Committee shall be such as may be fixed by the Committee.

(3) The salary and allowances of the President, the allowances of the other members of the Committee, the remuneration of the Administrative Officers and other staff appointed by the Committee and such other expenses as may be prescribed, shall be defrayed out of a levy at such rate as may be prescribed on the gross collections made by the Committee.

(4) The Government may make such advances to the Committee as may be necessary to enable it to function. All such advances shall bear interest at three *per centum per annum* and, notwithstanding anything contained in any other law for the time being in force, shall be the first charge on the properties vesting in the Committee or the incomes accruing therefrom and shall be recoverable as a public demand.

Vesting of evacuee property and release thereof.

8. (1) Subject to the provisions of sub-sections (2), (3) and (4),—

(i) the Committee shall take charge of any evacuee property for management on or before the 31st March, 1951, only if the evacuee applies to the Committee for such management and makes a declaration in such application that he does not intend to return to East Bengal on or before that date, and

(ii) the Committee may, on its own motion or on the application of the evacuee, take charge of any evacuee property for management after the 31st March, 1951, if the evacuee has not actually returned to East Bengal on or before that date.

(2) Before taking charge of any evacuee property under sub-section (1), the Committee shall cause a public notice to be served in the prescribed manner calling for objections to the management of such property by the Committee and such objection, if any, shall be filed before the Committee within 30 days of the date of service of such notice.

(Section 8.)

(3) If an objection is filed under sub-section (2), the Committee shall decide the matter summarily after, if necessary, calling for a report from the Collector of the district in which the property or any part thereof is situated.

(4) The Committee shall not take charge of any evacuee property,—

(i) if the sole owner or all the co-sharer owners of the property object under sub-section (2) to the management of such property by the Committee on the ground that he or they has or have made other arrangements for the management and utilisation of the property and if the Committee is satisfied that the arrangements so made are proper and adequate, or

(ii) if an objection is filed and allowed under this section.

(5) Any decision by the Committee under sub-section (3) shall not prejudicially affect the right of any person to establish his title in a competent Civil Court.

(6) When the Committee takes charge of any evacuee property under sub-section (1), it shall pass a formal order recording such fact whereupon the property shall vest in the Committee.

(7) When any evacuee property has vested in the Committee under sub-section (6), the Committee shall, as soon as may be, give public notice of the fact in the prescribed manner.

(8) An evacuee, whose property has vested in the Committee, may, nevertheless at any time, dispose of such property by sale, exchange, gift, simple mortgage or otherwise but not by lease or usufructuary mortgage; and upon such disposition the evacuee shall inform the Committee thereof in the prescribed manner:

Provided that any such disposition shall be subject to any lease granted under section 11.

(9) On receipt of the information under sub-section (8) of the disposition of any evacuee property, the Committee shall, by a written order, release such property forthwith from its management and give public notice of such order in the prescribed manner; and all further responsibility of the Committee in respect of the management of such property shall thereafter cease:

Provided that all amounts due to the Committee on the date of the order of release in respect of such property and management thereof shall be a charge on the property and recoverable as a public demand;

(Sections 9—11.)

Provided further that on such release, the Committee shall pay to the evacuee the balance, if any, of the income of such property after deducting from such income all sums properly debitable thereto.

Rights, powers and duties of the Committee.

9. (1) Subject to the provisions of this Act, the Committee shall have all the rights and liabilities and powers of an owner in respect of an evacuee property vested in it for the management and protection thereof.

(2) The Committee shall take such measure as may be necessary for the good management and protection of any evacuee property vested in it, for the assertion of title thereto and for obtaining or maintaining possession thereof, and may, for such purposes, do all acts and incur all expenses which are necessary or incidental.

(3) (i) The Committee shall maintain in the prescribed form a separate account of the property of each evacuee or group of evacuees, whose properties vested in it have been jointly managed in the past, or who may apply in writing for such joint management, and shall cause to be made therein entries of all receipts and payments.

(ii) The Government shall cause such accounts to be inspected and audited at such intervals and by such persons as may be prescribed. The cost of such audit and inspection shall be met by the Committee according to the prescribed scale.

(iii) A copy of the audited account of the property of each evacuee shall be supplied to him by the Committee on application and the audited account shall also be available in the office of the Administrative Officer for inspection by the evacuee or an agent authorised by him in writing.

(4) The Committee shall pay to each evacuee, in such manner and at such intervals as may be prescribed, the income of any property of the evacuee vested in the Committee, after deducting therefrom all sums properly debitable to such income.

Certain payments not to be valid discharge.

10. All sums due to an evacuee from any person in respect of a property vested in the Committee shall, after the publication of a notice under sub-section (7) of section 8, be payable to the Committee alone and to none else, and any payment made in contravention of the provision of this section shall not operate as a valid discharge.

Restrictions on the powers of the Committee.

11. (1) Except as provided in sub-section (2), the Committee shall not be entitled to transfer any evacuee property vested in it without the written consent of the evacuee.

*The East Bengal Evacuees (Administration of
Immovable Property) Act, 1951.*

of 1951.]

(Sections 17—21.)

17. (1) If any evacuee property, of which the Committee takes charge under sub-section (1) of section 8, is found to be in the unlawful possession of any person, the District Magistrate of the District in which such property is situated or any other officer who may be empowered in this behalf by such District Magistrate may, on the application of the Committee or of an Administrative Officer empowered by the Committee, enforce the surrender of such property by such person to the Committee, and the District Magistrate or the officer so empowered by the District Magistrate may use or cause to be used such force as is necessary for taking possession of the property.

Surrender of
evacuee prop-
erty by
trespassers.

(2) Such person shall also be liable to pay to the Committee compensation at the prescribed rate for unlawful occupation of the property and such compensation shall be recoverable from him as a public demand.

18. Except as expressly provided in this Act, no Civil Court or High Court shall call in question any order passed or any action taken under this Act.

Bar to juris-
diction of
Civil Courts.

19. (1) The Administrative Officers shall be under the supervision and control of the Committee, and the Committee may, on its own motion or on application filed within thirty days of the date of the order review, rescind or vary any order of an Administrative Officer.

Control of
Administra-
tive Officers.

(2) The Collector of the District or such other officer as may be authorised by the Government in this behalf shall have powers to inspect the work of any Administrative Officer and the staff subordinate to him and examine any record, book of account or other paper maintained by the Administrative Officer.

20. (1) The East Bengal Evacuees (Administration of Property) Act, 1949, and the East Bengal Evacuees (Administration of Immovable Property) Ordinance, 1951, are hereby repealed.

Repeal of
East Bengal
Act VIII of
1949 and
East Bengal
Ordinance
No. II of
1951, and
savings.

(2) Any orders passed or appointments made or any notification issued or anything done or any action taken or any proceedings commenced under any provision of the said Ordinance shall continue in force and be deemed to have been passed, made, issued, done, taken or commenced, as the case may be, under the corresponding provision of this Act, as if this Act had commenced on the date of coming into force of that Ordinance.

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THE SCHEDULE.

East Bengal Act XXVIII of 1951.

THE EAST BENGAL STATE ACQUISITION
TENANCY ACT, 1950.¹

[16th May,

AND

1951.]

An Act to provide for the acquisition by the State of the interests of rent-receivers and certain other interests in land in ²[East Pakistan] and to define the law relating to tenancies to be held under the State after such acquisition and other matters connected therewith.

WHEREAS it is expedient to provide for the acquisition by the State of the interests of rent-receivers and certain other interests in land in ²[East Pakistan] and to define the law relating to tenancies to be held under the State after such acquisition and other matters connected therewith;

It is hereby enacted as follows:—

PART I.

CHAPTER I.

Preliminary.

1. (1) This Act may be called the East Bengal State Acquisition and Tenancy Act, 1950.
- (2) It extends to the whole of ²[East Pakistan].
2. In this Act, unless there is anything repugnant to the subject or context,—
 - (1) “cesses” include local rates levied under the Local Rates Regulation, 1879;
 - (2) “charitable purpose” includes relief of the poor, education, medical relief and the advancement of any other object of general public utility;

Assam
Regn. III
of 1879.

Short title
and extent.

Definitions.

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 6th April, 1948; for Report of Select Committee, see *Dacca Gazette, Extraordinary*, dated the 16th August, 1949, Part IVA, page 547; for proceedings in Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 7th April, 1948, 16th to 17th, 21st to 26th, 28th to 30th November, 1st to 3rd, 5th to 10th, 12th to 13th, 15th to 17th and 19th December, 1949, 7th to 10th and 13th to 16th February, 1950.

The Act was extended to those areas of the district of Mymensingh, which are known “Partially Excluded Areas” immediately before the coming into force of the Constitution which was abrogated by the Presidential Proclamation of 7th October, 1958, with effect from the 16th May, 1951, vide notification No. 4342 L.R., dated the 30th April, 1951, published in the *Dacca Gazette, Extraordinary*, dated the 16th May, 1951, Part I, page 400.

The Act with certain exceptions was also extended to certain areas of the excluded areas of Chittagong Hill-tracts vide notification No. 1728 L. R., dated the 12th November, 1955, published in the *Dacca Gazette, Extraordinary*, dated the 30th November, 1955, Pt. I, p. 2015.

²The words within square brackets were substituted for the words “East Bengal” by the East Pakistan Repealing and Amending Ordinance, 1960 (E.P. Ord. XXVIII of 1960), First Schedule.

(Section 2.)

(3) "**Collector**" means the Collector of a district and includes a Deputy Commissioner and such other officers as may be appointed by the Provincial Government to perform all or any of the functions of a Collector under this Act;

(4) "**Commissioner**" means the Commissioner of State Purchase appointed under sub-section (1) of section 48;

(5) "**company**" has the same meaning as in the Companies Act, 1913;

(6) "**complete usufructuary mortgage**" means a transfer by a tenant of the right of possession in any land for the purpose of securing the payment of money or the return of grain advanced or to be advanced by way of loan upon the condition that the loan, with all interest thereon, shall be deemed to be extinguished by the profits arising from the land during the period of the mortgage; Act VI of 1913.

(7) "**consolidation**", used with respect to holdings means the redistribution of all or any of the areas of land comprised in the holdings for the purpose of rendering separate holdings more compact by reducing the total number of separate plots;

(8) "**co-operative society**" means a society registered or deemed to be registered under the Co-operative Societies Act, 1912, or the Bengal Co-operative Societies Act, 1940; Act II of 1912.
Ben. Act XXI of 1940.

(9) "**cultivating raiyat**" or "**cultivating under-raiyat**" means a raiyat or an under-raiyat, as the case may be, who holds land by cultivating it either by himself or by members of his family or by servants or by *bargadars* or by or with the aid of hired labourers or with the aid of partners;

¹(9a) "**Director of Land Records and Surveys**" includes Additional Director of Land Records and Surveys;

(10) "**encumbrance**", in relation to any estate, tenure, holding, tenancy or land, means any mortgage, charge, lien, sub-tenancy, easement or other right or interest created by the holder thereof on such estate, tenure, holding, tenancy or land or in limitation of his own interest therein;

(11) "**estate**" means land included under one entry in any of the general registers of revenue-paying lands and revenue-free lands, prepared and maintained under the law for the time being in force by the Collector of a district, and includes Government *khas mahals* and revenue-free lands not

¹Clause (9a) was added by the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956 (E. P. Ord. No. III of 1956), section 3.

(Section 2.)

entered in any register; and also includes the following in the district of Sylhet :—

- (i) any land subject either immediately or prospectively to the payment of land-revenue for the discharge of which a separate engagement has been entered into;
- (ii) any land subject to the payment of, or assessed with, a separate amount as land revenue although no engagement has been entered into with the Government for that amount;
- (iii) any land which is, for the time being, included under one entry in the Deputy Commissioner's register of revenue-free estates as well as revenue-free lands which are not so included in such register;
- (iv) any land, being the exclusive property of Government, of which a separate entry has been made in the general register of revenue-paying and revenue-free estate mentioned in Chapter IV of the Assam Land and Revenue Regulation, 1886;

Assam
Regn. I
of 1886.

(12) "*hat*" or "*bazar*" means any place where persons assemble daily or on particular days in a week primarily for the purposes of buying or selling agricultural or horticultural produce, livestock, poultry, hides, skins, meat, fish, eggs, milk, milk-products or any other articles of food or drink or other necessities of life, and includes all shops of such articles or manufactured articles within such place;

(13) "*holding*" means a parcel or parcels of land or an undivided share thereof, held by a *raiyat* or an under-*raiyat* and forming the subject of a separate tenancy;

(14) "*homestead*" means a dwelling house with the land under it, together with any courtyard, garden, tank, place of worship and private burial or cremation ground attached and appertaining to such dwelling house, and includes any out-buildings used for the purpose of enjoying the dwelling house or for purposes connected with agriculture or horticulture and such lands within well defined limits, whether vacant or not, as are treated to be appertaining thereto;

(15) "*khas land*" or "*land in khas possession*", in relation to any person, includes any land let out together with any building standing thereon and necessary adjuncts thereto, otherwise than in perpetuity;

(16) "*land*" means land which is cultivated, uncultivated or covered with water at any time of the year, and

(Section 2.)

includes ¹[benefits to arise out of land,] houses or buildings and also things attached to the earth, or permanently fastened to anything attached to the earth;

(17) "non-agricultural tenant" means a tenant who holds land for purposes not connected with agriculture or horticulture, but does not include a person holding land together with any building standing thereon any necessary adjuncts thereto under a lease other than a lease in perpetuity;

(18) "notification" means a notification published in the *Official Gazette*;

²(18a) "orchard" means a garden of fruit-trees grown by human efforts and includes cocoanut, betelnut and pineapple gardens;

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

(20) "proprietor" means a person owning, whether in trust or for his own benefit, an estate or a part of an estate;

(21) "registered" means registered under any Act for the time being in force for the registration of documents;

(22) "rent" means whatever is lawfully payable or deliverable in money or kind by a tenant to his landlord on account of the use or occupation of the land held by the tenant;

(23) "rent-receiver" means a proprietor or a tenure-holder, and includes a *raiyyat*, an under-*raiyyat* or a non-agricultural tenant whose land has been let out and also the immediate landlord of a person who holds any land free of rent in consideration of some service to be rendered, but does not include a person in respect of such of his lands, as has been let out, together with any building standing thereon and necessary adjuncts thereto, otherwise than in perpetuity;

(24) "Revenue-officer" includes any officer whom the Provincial Government may appoint to discharge all or any of the functions of a Revenue-officer under this Act or any rules made thereunder;

(25) "signed" includes "marked", when the person making the mark is unable to write his name; it also includes "stamped" with the name of the person referred to;

¹These words and comma were inserted by the East Bengal State Acquisition and Tenancy (Amendment) Act, 1953 (E.B. Act V of 1953), section 3.

²Clause (18a) was inserted by the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1958 (E.P. Ord. No. XLIV of 1958), section 3.

of 1951.]

(Section 2.)

(26) "succession" includes both intestate and testamentary succession;

(27) "tenant" means a person who holds land under another person and is, or but for a special contract would be, liable to pay rent for that land to that person:

Provided that a person who, under the system generally known as "*adhi*", "*barga*", or "*bhag*", cultivates the land of another person on condition of delivering a share of the produce to that person, is not a tenant, unless—

(i) such person has been expressly admitted to be a tenant by his landlord in any document executed by him or executed in his favour and accepted by him, or

(ii) he has been or is held by a Civil Court to be a tenant;

(28) "tenure" means the interest of a tenure-holder or an under-tenure holder;

(29) "village" means the area defined, surveyed and recorded as a distinct and separate village in any survey made by, or under the authority of, the Government, and, where no such survey has been made, such area as the Collector may, with the sanction of the Board of Revenue, by general or special order, declare to constitute a village;

(30) "year" or "agricultural year" means the Bengali year commencing on the first day of *Baishakh*; and

(31) all words and expressions used in Parts I, II, III and IV of this Act, but not defined in this Act, and used in the Bengal Tenancy Act, 1885, or in the Sylhet Tenancy Act, 1936, have the same meanings as in those Acts in the respective areas to which those Acts apply—

VIII of
1885.
Assam
Act XI of
1936.

12A. The Provincial Government may, in public interest, exempt, by general or special order, the interests of any local authority in any land or class of lands from acquisition under the provisions of this Act. Exemption.

¹Section 2A was inserted by the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1958 (E.P. Ord. No. XLIV of 1958), section 4.

(Section 3.)

PART II.

CHAPTER II.

*Special provisions for the acquisition of the interests of certain
rent-receivers.*

Acquisition
of the inte-
rests of cer-
tain rent-re-
ceivers and
consequences
thereof.

3. (1) At any time after the commencement of this Act, it shall be lawful for the Provincial Government to acquire, by notification in the *Official Gazette*, with effect from such date as may be specified in the notification (hereinafter referred to as the notified date),—

(i) all interests of such of the rent-receivers as may be specified in the notification, in their respective estates, ¹[*taluks*, tenures, holdings or tenancies], as the case may be, in any district, part of a district or local area, and

(ii) all interests of all rent-receivers whose properties are, for the time being, under the management of the Court of Wards under the Court of Wards Act, 1879, in their respective estates, ¹[*taluks*, tenures, holdings or tenancies], as the case may be,

Ben. Act
IX of
1879.

including all their interests in all sub-soil and rights to minerals in such estates, ¹[*taluks*, tenures, holdings or tenancies].

(2) Subject to the provisions of sub-sections (2), (3), (4) and (5) of section 20, the Provincial Government may also, simultaneously with or at any time after the publication of a notification under sub-section (1) in respect of the interests of any rent-receiver in any estate, ²[*taluk*, tenure, holding or tenancy], acquire, by notification in the *Official Gazette*, with effect from such date as may be specified in the notification (hereinafter referred to as the notified date), ³[all or any of the lands in his *khas* possession of which he shall not be entitled to retain possession under the said section and so much of the lands in his *khas* possession as has been acquired under this sub-section and has not vested in the Provincial Government under clause (a) of sub-section (4), shall vest absolutely in the Provincial Government free from all incumbrances].

¹These words and commas were substituted for the words "*taluks* or tenures" by the East Bengal State Acquisition and Tenancy (Amendment) Act, 1952 (E.B. Act VI of 1952), section 3.

²These words and commas were substituted for the words "*taluk* or tenure" by section 3, *ibid.*

³These words and commas were substituted for the words and commas "all or any of the lands in his *khas* possession, in such estate, *taluk*, tenure, holding or tenancy, of which he shall not be entitled to retain possession under the said section" by the East Bengal State Acquisition and Tenancy (Amendment) Act, 1954 (E.B. Act XII of 1954), section 3.

of 1951.]

(Section 3.)

¹(2a) In a notification issued under this section, rent-receivers may be specified or described by name, or by reference to areas wherein they have interests, or in such other manner as the Provincial Government may determine.

(3) The notification referred to in sub-section (1) or sub-section (2) shall be in such form and shall contain such particulars as may be prescribed.

(4) On and from the date specified in a notification under sub-section (1),—

- (a) all interests of the rent-receivers in the estates, ²[*taluks*, tenures, holdings or tenancies] specified in the notification, including their interests in all lands in their *khas* possession, and interests in all sub-soil and rights to minerals, in such estates, ²[*taluks*, tenures, holdings or tenancies] and also including the interests of any such rent-receiver in any building or part of a building standing on any such land and used primarily as office or *cutchery* for the collection of rent of any estate, ³[*taluk*, tenure, holding or tenancy], shall vest absolutely in the Provincial Government free from all *encumbrances* ****:

Provided that nothing in this clause shall apply to any building within the homestead of the rent-receiver concerned;

- (b) all arrears of revenue or rent and all cesses, together with interest, if any, payable thereon, remaining lawfully due to the Collector on the notified date in respect of any interest acquired under sub-section (1) shall, after the said date, continue to be recoverable from the person by whom they were payable and shall, without prejudice to any other mode of recovery, be recoverable by the deduction of the amount of such arrears, cesses and interest from the compensation money payable to such person under section 58, when so ordered by the Collector;

¹Sub-section (2a) was added by the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956 (E. B. Ord. No. III of 1956), section 4.

²These words and commas were substituted for the words "*taluks or tenures*" by the East Bengal State Acquisition and Tenancy (Amendment) Act, 1952 (E. B. Act VI of 1952), section 3.

³These words and commas were substituted for the words "*taluk or tenure*" by section 3, *ibid*.

⁴The words "*other than sub-tenancies*" were omitted by the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956 (E. B. Ord. No. III of 1956), section 4.

(Section 3.)

- (c) all arrears of rent and all cesses, together with interest, if any, due thereon, in respect of any period previous to the notified date payable to a rent-receiver in respect of any interest acquired under sub-section (1) which have not been barred by limitation shall, on and from the said date, vest in, and be recoverable by, the Provincial Government and shall, without prejudice to any other mode of recovery, be recoverable, from the persons by whom they were payable, by the deduction of the amount of such arrears, cesses and interest from the compensation money, if any, payable to such persons under section 58, when so ordered by the Collector;
- (d) all amounts recoverable by the Provincial Government from a rent-receiver under the Bengal Embankment Act, 1882,¹[or the East Bengal Embankment and Drainage Act, 1952] which remain outstanding on the notified date, whether on account of arrear dues or dues under future instalments under the said Acts, in respect of any interest acquired under sub-section (1), shall, without prejudice to any other mode of recovery, be recoverable by the deduction of the amounts of such arrear and future instalments from the compensation money payable to such rent-receiver under section 58 in respect of such interest, when so ordered by the Collector;
- ²(dd) all arrears of agricultural income-tax recoverable by the Provincial Government from a rent-receiver under the Bengal Agricultural Income-tax Act, 1944, which remain outstanding on the notified date, in respect of any interest acquired under sub-section (1), shall, without prejudice to any other mode of recovery, be recoverable by the deduction of the amounts of such arrears from the compensation money payable to such rent-receiver under section 58 in respect of such interest, when so ordered by the Collector;
- (e) all tenants holding lands in such estates, ³[*taluks*, *tenures*, holdings or tenancies] directly under the rent-receiver specified in the notification under sub-section (1), shall become tenants

Ben. Act
II of 1882.
E. B. Act
I of 1953.

Ben. Act
IV of
1944.

¹The words, comma and figures within square brackets were inserted by the East Pakistan Repealing and Amending Ordinance, 1960 (E.P. Ord. XXVIII of 1960), First Schedule.

²Clause (dd) was inserted by the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1959 (E. P. Ord. No. XXXIX of 1959), section 3.

³See foot-note 2 on p. 191.

of 1951].

(Section 3.)

directly under the Provincial Government and shall pay rent at the existing rate, in respect of the rent-paying lands so held by them, to the Provincial Government and not to anybody else:

E. P. Ord.
XIV of
1957.

¹Provided that in cases where no notification was issued under sub-section (2) of section 43 before the commencement of the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1957, declaring that the Compensation Assessment-roll in respect of the interest of any such rent-receiver in any such estate, *taluk*, tenure, holding or tenancy had been finally published, all tenants holding lands in such estate, *taluk*, tenure, holding or tenancy directly under such rent-receiver shall, as tenants under the Provincial Government, be liable to pay rents in respect of the lands so held by them, except rent-free lands, at the rates determined in the record-of-rights finally published under sub-section (3) of section 19 subject to modification under section 53;

(f) all such rent-receivers shall be entitled to hold as tenants directly under the Provincial Government such of their *khas* lands as has not been acquired under sub-section (2) and shall be liable to pay to the Provincial Government, the rent determined for such lands under section 5;

²(ff) pending the final publication of the record-of-rights under sub-section (3) of section 19 or determination of rents under section 5, as the case may be, the tenants referred to in the proviso to clause (e) and in clause (f) shall pay rents to the Provincial Government at the rates shown in the preliminary rent-rolls prepared under the rules made ³[under Chapter IV in the district other than the district of Sylhet;

¹This proviso was added by the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1958 (E. P. Ord. No. XLIV of 1958), section 5.

²Clause (ff) with the proviso was inserted by the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1958 (E.P. Ord. No. XLIV of 1958), section 5.

³The words, figures, brackets, commas, semi-colon and colon within square brackets were substituted for the words, figures and colon "under Chapter IV:" by the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1959 (E. P. Ord. No. IV of 1959), section 3.

(Section 3.)

and, in the district of Sylhet, the tenants referred to in the proviso to clause (e) shall pay rents to the Provincial Government at the rates shown in the provisional rent-rolls, prepared on the basis of draft record-of-rights attested under the provisions of the Sylhet Tenancy Act, 1936, the Assam Land and Revenue Regulation, 1886, or the East Bengal State Acquisition and Tenancy Act, 1950, as the case may be, and the tenants referred to in clause (f) shall pay rent to the Provincial Government at the rates determined under section 5 and the rules made thereunder:]

Assam
Act XI of
1936.

Assam
Regulation I
of 1886.
E.B. Act
XXVIII
of 1951.

Provided that when any such rent is shown either at an enhanced or at a reduced rate in the record-of-rights finally published under subsection (3) of section 19, or determined either at an enhanced or at a reduced rate under section 5, as the case may be, or when any such rent is enhanced or reduced under section 53, the tenant shall be liable to pay the balance or entitled to the adjustment of excess payment against future rent payable by him, as the case may be, with retrospective effect from the notified date;

(g) an arrear of rent payable under ¹[clauses (e), (f) and (ff)] ²[may, without prejudice to any other mode of recovery,] be recoverable under the Bengal Public Demands Recovery Act, 1913;

Ben. Act
III of
1913.

(h) a transferable tenure coming ³[in whole] directly under the Provincial Government under clause (e) shall be deemed to be a tenure as defined in section 1 of the Bengal Land Revenue Sales Act, 1868.

Ben. Act
VII of
1868.

(5) The outgoing rent-receivers, whose interests have been acquired under this section, shall be entitled to compensation as provided in this Act.

¹The words, brackets, comma and letters within square brackets were substituted for the words, brackets and letters "clauses (e) and (f)" by the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1958 (E. P. Ord. No. XLIV of 1958), section 5(3).

²These words and commas were substituted for the word "shall" by the East Bengal State Acquisition and Tenancy (Amendment) Act, 1952 (East Bengal Act VI of 1952), section 4.

³These words were inserted by section 4, *ibid.*

1951.]

(Sections 3A, 4.)

- 13A. For the purpose of acquisition, under section 3, of the interest of any rent-receiver in any estate, *taluk*, tenure, holding or tenancy or of the lands in his *khas* possession, the Revenue-officer may, at any time before the publication of a notification under sub-section (1) or sub-section (2) of that section in respect of such interest or lands, cause a notice to be served on such rent-receiver in the prescribed manner, directing him to furnish, within such time, not being less than sixty days from the date of service of the notice, as may be specified therein, a return in the prescribed form showing any of the following particulars, as may be required by such notice:—
- (i) the total area and description of all the estates, *taluks*, tenures, holdings and tenancies held by him and the annual revenue or rent and cesses payable by him in respect thereof to the Provincial Government or to his immediate superior landlord, as the case may be;
 - (ii) the names of the villages, thanas and districts in which the lands of the estates, *taluks*, tenures, holdings and tenancies are situated, together with a list of collection papers relating thereto, for a period not exceeding five years immediately preceding;
 - (iii) the area, description and classification of all lands in his *khas* possession with the names of villages and thanas in which they are situated;
 - (iv) the names of all co-sharers having joint collection with him, with their respective shares in such estates, *taluks*, tenures, holdings and tenancies; and
 - (v) such other information as the Revenue-officer may deem necessary.

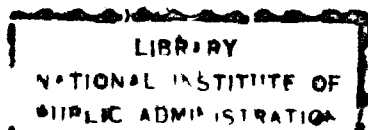
Serv
notice
furnishing
return be-
fore notifi-
cation.

4. (1) as soon as may be after the publication of a notification under sub-section (1) of section 3, [the Revenue officer may] cause a notice to be served in the prescribed manner on every rent-receiver specified in such notification other than a rent-receiver whose properties are under the

Service of
notice to
furnish
returns, etc.,
and penalty
for non-com-
pliance.

¹Section 3A was inserted by the East Bengal State Acquisition and Tenancy (Amendment) Act, 1952 (East Bengal Act VI of 1952), section 5.

²These words were substituted for the words "the Revenue-officer shall" by the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956 (E. B. Ord. III of 1956), section 5.



(Section 4.)

management of the Court of Wards under the Court of Wards Act, 1879, directing him to furnish,—

Ben. Act
IX of
1879.

(a) a return in the prescribed form showing—

- (i) the total area and description of the estate, ¹[*taluk*, tenure, holding or tenancy] in respect of which his interests are acquired by the said notification and the annual revenue or rent and cesses payable by him in respect thereof to the Provincial Government or to his immediate superior landlord, as the case may be,
- (ii) the names of the villages with thanas in which the lands of the estate, ¹[*taluk*, tenure, holding or tenancy] are situated and the total annual demand of rent and cesses of each village with a list of collection papers in support of the demand,
- (iii) the area and description of the lands in his *khas* possession, and
- (iv) the names of all co-sharers having joint collection with him, with their respective shares in such estate, ¹[*taluk*, tenure, holding or tenancy], and

(b) such other information, papers or documents as the Revenue-officer may deem necessary,

and to hand over all papers of his *sherista* relating to the estate, ¹[*taluk*, tenure, holding or tenancy], to such officer and within such time, not being less than sixty days from the date of service of the notice, as may be specified in such notice:

²Provided that it shall not be necessary for a rent-receiver to furnish such of the particulars as, in the opinion of the Revenue-officer, have already been correctly furnished by him pursuant to a notice under section 3A.

(2) The officer taking delivery of the papers mentioned in sub-section (1) shall grant a receipt for the papers handed over to him.

(3) All co-sharers having joint collection shall be jointly and severally liable to comply with the directions

¹See foot-note 2 on page 190.

²This proviso was added, after substituting a colon for the full stop at the end of sub-section (1) of section 4, by the East Bengal State Acquisition and Tenancy (Amendment) Act, 1952 (E. B. Act VII of 1952) section 6.

(Section 4.)

given in ¹[a notice under sub-section (1) of this section or section 3A] so far as they relate to any estate, ²[*taluk*, tenure, holding or tenancy] held by them jointly.

(4) If any person, on whom a notice has been served under ³[sub-section (1) of this section or section 3A], wilfully fails to comply with all or any of the directions contained in such notice within the time specified therein or within such further time as the Revenue-officer may allow in his discretion, or wilfully furnishes any incorrect information or suppresses any information, paper or document, in respect of any estate, ²[*taluk*, tenure, holding or tenancy],—

(a) he shall be liable to a fine, to be imposed by the Revenue-officer after giving the defaulting person an opportunity of being heard, which may,—

(i) in the case of a revenue-paying estate or a rent-paying ²[*taluk*, tenure, holding or tenancy], extend to five times the annual revenue of the estate or the annual rent of the ²[*taluk*, tenure, holding or tenancy], as the case may be, and

(ii) in the case of a revenue-free estate or a rent-free ²[*taluk*, tenure, holding or tenancy], extend to such amount not exceeding two thousand five hundred rupees as the Revenue-officer may fix in his discretion; and

(b) in addition, he may be deprived of the benefit of the *ad interim* payment as provided in section 6, if so ordered by the Revenue-officer.

(5)(i) If any rent-receiver, on whom a notice has been served under sub-section (1), fails to hand over the papers of his *sherista* relating to any estate, ²[*taluk*, tenure, holding or tenancy] in accordance with the direction contained in such notice within the time specified therein or within such further time as the Revenue-officer may allow in his discretion, the Revenue-officer or any other person authorised by him, may, with such assistance, if any, as he thinks necessary, enter upon any land or building, where the Revenue-officer has reason to believe that such papers may be found, and seize and take possession of such papers as he may consider essential for the management of such estate, ²[*taluk*, tenure, holding or tenancy]:

¹This expression was substituted for the expression "such notice" by the East Bengal State Acquisition and Tenancy (Amendment) Act, 1952 (E. B. Act VI of 1952), section 6.

²See foot-note 2 on page 190.

³This expression was substituted for the expression "sub-section (1)" by the East Bengal State Acquisition and Tenancy (Amendment) Act, 1952 (E. B. Act VI of 1952), section 6.

(Sections 5, 6.)

Provided that the Revenue-officer or such other person shall not enter upon any enclosed courtyard or garden attached to a building except with the consent of the inmate or occupier thereof, or if such consent is refused, except after giving such inmate or occupier at least two hours' notice in writing of his intention to do so :

Provided further that an inventory of the papers taken possession of by the Revenue-officer or such other person under this sub-section shall be furnished to the rent-receiver concerned by the Revenue-officer.

(ii) The provisions of this sub-section shall apply without prejudice to the provisions of sub-section (4).

(6) Any rent-receiver, who has handed over the papers of his *sherista* relating to any estate, ¹[*taluk*, tenure, holding or tenancy] to an officer of the Provincial Government under sub-section (1), or any person interested in such an estate, ¹[*taluk*, tenure, holding or tenancy], shall be entitled to inspect such papers in the prescribed manner and to get copies of any such paper on payment of the prescribed fees.

Determina-
tion of rent
of *khas* lands
of rent-
receivers.

²5. As soon as may be after the publication of a notification under sub-section (1) of section 3, the Revenue-officer shall determine, according to the principles laid down in sections 23, 24, ³[25, 25A], 26, 27 and 28, the rent of every parcel of lands in the *khas* possession of all rent-receivers specified in such notification and comprised in the estates, *taluks*, tenures, holdings or tenancies to which such notification relates.

Ad interim
payment.

6. (1) A rent-receiver, whose interests in any estate, ¹[*taluk*, tenure, holding or tenancy] are acquired under sub-section (1) of section 3, shall, with effect from the notified date, be entitled to receive annually in cash in respect of such interests, at such time and in such manner as may be prescribed, an *ad interim* payment at the rate of one-third of the net income on account of the demands of rent and cesses for any period after the notified date collected

¹See foot-note 2 on page 190.

²Section 5 was substituted for the former section 5 by the East Bengal State Acquisition and Tenancy (Amendment) Act, 1954 (E. B. Act XII of 1954), section 4.

³The figures, comma and letter within square brackets were substituted for the figures "25" by the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1958 (E. P. Ord. No. XLIV of 1958), section 6.

of 1951.]

(Section 6.)

from such estate, ¹[*taluk, tenure, holding or tenancy*], as the case may be, in respect of such interests in the year to which such payment relates.

(2) A rent-receiver, whose *khas* land is acquired under sub-section (2) of section 3, shall, with effect from the notified date, be entitled to receive annually in cash in respect of such land, at such time and in such manner as may be prescribed, an *ad interim* payment at the rate of five *per centum* of the amount of compensation payable for such land under sub-section (1) of section 39 and the provisions of sub-sections (2), (3) and (4) of that section shall apply *mutatis mutandis* in the matter of determination of such amount.

(3) For the purposes of sub-section (1), the net income from any estate, ¹[*taluk, tenure, holding or tenancy*] for any year shall be computed by the deducting from the gross collections, made by the Provincial Government in such year from such estate, ¹[*taluk, tenure, holding or tenancy*] on account of the demands of rents and cesses for any period after the notified date due to the interests acquired under sub-section (1) of section 3, the following:—

(i) an amount equivalent to the sums which were or are determined to have been payable annually for such interests immediately before the notified date on account of revenue or rent and cesses to the Provincial Government or to the immediate superior landlord, as the case may be ;

²(ii) an amount equivalent to the amount of the taxes on such collections that would have been assessable, at the average rates, under the Bengal Agricultural Income-tax Act, 1944, or the Income-tax Act, 1922, had not the provisions of section 3 been applied ;

(iii) the expenditure, if any, incurred for the maintenance of any irrigation or protective works in such estate, ¹[*taluk, tenure, holding or tenancy*] if the outgoing rent-receiver was legally bound to maintain them; and

Ben. Act
IV of
1944. Act
No. XI
of 1922.

¹See foot-note 2 on page 190.

²Clause (ii) was substituted for the original clause (ii) by the E. B. Act VI of 1952, s. 8. The original clause (ii) read as follows:

Ben. Act IV
of 1944. Act
XI of 1922.

“(ii) an amount equivalent to the amount of the tax that would have been payable under the Bengal Agricultural Income-tax Act, 1944, or the Income-tax Act, 1922, in respect of such collections, had not the provisions of section 3 been applied ;”

(Section 6A.)

(iv) collection charges not exceeding twenty *per centum* of the gross collections.

¹*Explanation.*—In this sub-section, “average rates” mean the average rates of taxes at which assessment was made for the last time, before the notified date, under the provisions of the Bengal Agricultural Income-tax Act, 1944, or the Income-tax Act, 1922. Ben. Act IV of 1944. Act No. XI of 1922.

(4) In determining the amounts of deductions under sub-section (3), the Revenue-officer shall be guided by such rules as may be made in this behalf by the Provincial Government.

²(5) Nothing in this section shall apply to any estate, *taluk*, tenure, holding, tenancy or land held under *wakf*, *wakf-al-aulad*, *debutter* or any other trust.

Ad interim
payment in
respect of
trust proper-
ties.

³6A. (1) A rent-receiver, whose interest in any estate, *taluk*, tenure, holding or tenancy held under *wakf*, *wakf-al-aulad*, *debutter* or any other trust, are acquired under sub-section (1) of section 3, shall, with effect from the notified date, be entitled to receive annually in cash in respect of such interests at such time and in such manner as may be prescribed, an *ad interim* payment, as follows:—

- (i) an annuity equivalent to so much of the net income of the estate, *taluk*, tenure, holding or tenancy as has been dedicated and applied exclusively to charitable or religious purposes without any reservation of pecuniary benefit for any individual ;
- (ii) for the portion of the net income, if any, of the estate, *taluk*, tenure, holding or tenancy, remaining after deduction of the annuity under clause (i), a sum calculated at the rate of three *per centum* of the amount of compensation payable for such portion of the net income under sub-section (1) of section 37.

(2) The amount of annuity referred to in clause (i) of sub-section (1) shall be determined in the same manner as is prescribed for the assessment of perpetual annuity under sub-section (3) of section 37, and the provisions of sub-section (4) of section 58 and sub-section (4) of section 59 shall apply in the matter of payment of such amount.

(3) For the purpose of clause (ii) of sub-section (1), the net income shall be determined in the manner provided in sub-sections (3) and (4) of section 6.

¹This Explanation was added by the East Bengal State Acquisition and Tenancy (Amendment) Act, 1952 (E. B. Act VI of 1952), section 8.

²Sub-section (5) was added by sec. 8, *ibid.*

³Section 6A was inserted by section 9, *ibid.*

1951.]

(Sections 7—9.)

(4) A rent-receiver, whose *khas* land, held under *wakf*, *f-al-al-aulad*, *debutter* or any other trust, is acquired under sub-section (2) of section 3, shall, with effect from notified date, be entitled to receive annually in cash in respect of such land, at such time and in such manner as may be prescribed, an *ad interim* payment at the rate of *per centum* of the amount of compensation payable for such land under sub-section (1) of section 39, and the provisions of sub-sections (2), (3) and (4) of that section shall apply *mutatis mutandis* in the matter of determination of such amount.

7. Any person aggrieved by an order of the Revenue-officer under sub-section (4) of ¹[section 4 or section 5, or an order of the Revenue-officer determining the amount of any *ad interim* payment under section 6 or section 6A] within a prescribed period and in the prescribed manner, present an appeal in writing to a prescribed Revenue Authority; and the decision of such Authority and also, subject only to such decision, an order of the Revenue-officer passed under the said section and provisions shall be final. Appeal.

The fine imposed under this Chapter shall be paid, by a person fined, in the prescribed manner within sixty days from the date of the order of the Revenue-officer imposing the fine or, when an appeal is presented against the order under section 7 within sixty days from the date of disposal of such appeal; and in default of such payment the amount of such fine shall be recoverable as a public demand under the Bengal Public Demands Recovery Act, 1913. Payment and recovery of fines imposed under this Chapter.

9. (1) Notwithstanding anything contained in any other law for the time being in force, on and from the date of publication of a notification under sub-section (1) of section 10 a rent-receiver specified in such notification shall, except with previous permission of a prescribed authority, transfer his rights and interests in any estate, ²[*taluk*, tenure, holding or tenancy], to which such notification relates, by private sale, gift, will, mortgage, lease or any contract or agreement, or transfer any land in his *khas* possession by any such means: Restriction on transfer.

³[Provided that any such rent-receiver shall be entitled to transfer, by private sale or mortgage only,

¹These words, figures, comma and letter were substituted for the words, figures, brackets and comma "section 4, section 5 or sub-section (2) of section 6" by the East Bengal State Acquisition and Tenancy (Amendment) Act, 1952 (E. B. Act VI of 1952), section 10.

²See foot-note 2 on page 190.

³This proviso was added by E. P. Ord. XLIV of 1958, section 7.

(Sections 10, 11.)

agricultural land in his *khas* possession exceeding ten standard bighas in the aggregate without any such permission.]

(2) Any transfer made in contravention of the provisions of sub-section (1) shall be null and void..

Exemption of *ad interim* payments from attachments.

10. Notwithstanding anything contained in the Code of Civil Procedure, 1908, and the Bengal Public Demands Recovery Act, 1913, any amount payable to an outgoing rent-receiver under sub-section (1) or (2) of section 1¹[or sub-section (1) or (4) of section 6A] shall not be liable to attachment in execution of any decree or order of a Civil Court or of a certificate signed under the Bengal Public Demands Recovery Act, 1913, other than a decree or certificate for the recovery of arrears of revenue, rents or cesses due in respect of the estate, *taluk*, ²[tenure, holding, tenancy or land] to which such payment relates.

PART III.

³CHAPTER III.

Special provisions regarding lands held in lieu of service

Acquisition of occupancy rights.

11. (1) Notwithstanding anything contained in any other law for the time being in force or in any contract or agreement entered into by any person who holds under another person any land for agricultural or horticultural purposes or for the purpose of his homestead, free of rent in consideration of service to be rendered under the system locally known as *Nankar*, *Chakran* or the like shall, on and from the date of commencement of this Act, acquire a right of occupancy in all such lands so held by him subject to the payment of a fair and equitable rent to the person under whom he holds such lands and the provisions of the Bengal Tenancy Act, 1885, or the Sylhet Tenancy Act, 1936, as the case may be, so far as they apply to occupancy *rai-yats*, shall apply to him.

(2) The fair and equitable rent, referred to in sub-section (1), shall mean such rent not exceeding

¹The words, figures, brackets and letter within square brackets inserted by the East Bengal State Acquisition and Tenancy (Amendment) Act, 1952 (E. B. Act VI of 1952), section 11.

²The words and commas within square brackets were substituted for the words "tenure or land" by section 11, *ibid*.

³As to the protection of Service Tenants from eviction and giving them the benefit of Chapter III of the East Bengal State Acquisition and Tenancy Act, 1950 (E. B. Act XXV. II of 1951), See the Bengal Service Tenants (Protection) Act, 1952 (E. B. Act IX of 1952) sections 3 and 4.

of 1951.]

(Sections 12, 13.)

prevailing rate of rent paid by the occupancy *raiyyats* for lands of a similar description and with similar advantages in the same village or in the neighbouring villages as may be agreed upon between such tenant and his landlord or, in the absence of such agreement, as may be determined by the Collector on the application of such tenant or the landlord.

12. (1) Notwithstanding anything contained in section 11, where such tenant has his homestead within the homestead of his landlord, either he or the landlord may, ¹[within six months from the date of commencement of this Act], apply to the Civil Court having jurisdiction to entertain a suit for the possession of such land, for an order directing the removal of the homestead of such tenant.

Removal of the homestead of a tenant in certain cases.

(2) When an application is made under sub-section (1), the Court, after giving the parties an opportunity of being heard and after taking such evidence and making such enquiries as it thinks fit, if satisfied that the homestead of the tenant is situated within the homestead of the landlord, shall make the order applied for:

Provided that the Court, if it finds that the total quantity of cultivable land held by such tenant as an occupancy *raiyyat*, whether by virtue of section 11 or otherwise, besides the homestead to which the application relates, is less than five standard bighas, shall assess such reasonable compensation to be paid to such tenant by the landlord as would, in the opinion of the Court, cover the cost of removal of the homestead of the tenant to a new site, the cost of reconstruction of a similar homestead, the cost of the land required for such construction and such other incidental expenses as the Court thinks fit; and it shall not make an order for such removal until the landlord deposits in the Court the amount of compensation so assessed for payment to the tenant, or the tenant admits before the Court in writing that he has received the amount from the landlord out of Court.

(3) An order under sub-section (2) shall be deemed to be a decree for ejectment against such tenant; and no appeal shall lie against such order.

13. (1) If a person has been ejected after the 7th day of April, 1948, otherwise than by a decree or order of a Civil Court or an order of the Collector or of any Revenue-officer empowered by the Collector, from any agricultural

Restoration of agricultural land in certain cases.

¹For the purpose of sub-section (1) of section 4 of the East Bengal Service Tenants (Protection) Act, 1952 (E. B. Act IX of 1952), the expression "within six months from the date of commencement of this Act" shall be deemed to have been substituted by the expression "within three months from the date of commencement of the East Bengal Service Tenants (Protection) Act, 1952".

(Sections 14—17.)

or horticultural land held by him free of rent in consideration of some service to be rendered under any system referred to in sub-section (1) of section 11, such person may, within six months from the date of commencement of this Act, apply to the Collector for the restoration of such land to him.

(2) When an application has been made under sub-section (1), the Collector, after giving the parties an opportunity of being heard and taking such evidence and making such enquiries as he thinks fit, if satisfied that the applicant was so rejected after the said date from such land so held by him, shall pass an order restoring such land to the applicant with effect from such date not being later than the first day of the agricultural year next following the date of the order as the Collector thinks fit.

(3) If the person in possession of such land does not give up its possession to the applicant with effect from such date, the Collector shall, on the application of such applicant, eject such person and place such applicant in possession of such land:

Provided if such person be a person other than the landlord, he shall get reasonable compensation, as determined by the Collector, from the landlord.

(4) When any agricultural or horticultural land is restored to a person under this section, the provisions of section 11 shall apply to such land.

Appeal.

14. Any person who is aggrieved by an order of the Collector under sub-section (2) of section 11 or under sub-section (2) of section 13, may prefer an appeal to the District Judge having jurisdiction over the area within thirty days from the date of such order; and the decision of the District Judge having jurisdiction over the area, on such appeal, shall be final.

Miscellaneous.

15. An application under sub-section (2) of section 11, sub-section (1) of section 12 or sub-section (1) of section 13 shall be in such form and contain such particulars as may be prescribed, and shall be accompanied by a process fee of the prescribed amount.

Saving as to certain lands.

16. Nothing in this Chapter shall apply to any land held within the boundaries of a tea estate or any other industrial organisation.

PART IV:

CHAPTER IV.

Preparation of Record-of-rights.

Preparation of record-of-rights.

17. (1) The Provincial Government may, with a view to acquisition under the provisions of this Act of the interests

of 1951.]

(Section 17.)

of all rent-receivers within any district, part of a district or local area and of such other interests in land therein as are liable to be acquired under the provisions of this Act, and with a view to the assessment of compensation payable for all such interests including the interests which have already been acquired under Chapter II, make an order directing—

(a) that a record-of-rights be prepared in respect of such district, part of a district or local area, or

VIII of
1885.

(b) that the record-of-rights, last prepared and finally published under Chapter X of the Bengal Tenancy Act, 1885, in respect of such district, part of a district or local area, be revised,

by a Revenue-officer in accordance with the provisions of this Chapter and with such rules as may be made in this behalf by the Provincial Government.

VIII of
1885.
Assam
Act XI of
1936.

(2) If any order has been made under section 101 of the Bengal Tenancy Act, 1885,¹[or under section 117 of the Sylhet Tenancy Act, 1936,] for the preparation of a record-of-rights in respect of any district, part of a district or local area, but the preparation of such record-of-rights has not been completed or such record-of-rights has not been finally published at the time when an order is made under sub-section (1) for the preparation or revision of a record-of-rights in respect of such district, part or area, then on the making of an order under the said sub-section, all further proceedings relating to the preparation of the record-of-rights under the said Act shall be stayed; and such record-of-rights shall be prepared in accordance with the provisions of this Chapter and with such rules as may be made in this behalf by the Provincial Government:

VIII of
1885.
Assam
Act XI of
1936.

Provided that any proceedings in respect of the preparation of such record-of-rights commenced under Chapter X of the Bengal Tenancy Act, 1885,²[or under Chapter IX of the Sylhet Tenancy Act, 1936], and undertaken prior to the publication of the draft of such record-of-rights under section 103A of the ³[Bengal Tenancy Act, 1885, or under section 119 of the Sylhet Tenancy Act, 1936, as the case may be], shall, for the purposes of the preparation of such record-of-rights under this Chapter, be deemed to have been commenced and undertaken under this Chapter.

¹The words, commas and figures within square brackets were inserted by the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956 (E. B. Ord. III of 1956), section 6.

²The words, comma and figures within square brackets were inserted, *ibid.*

³The words, commas and figures within square brackets were substituted for the words “*sa* Act” by section 6, *ibid.*

(Sections 18—20.)

(3) A notification in the *Official Gazette* of an order under sub-section (1) shall be conclusive evidence that the order has been duly made.

Particulars to be recorded in the record-of-rights.

18. When an order is made under section 17, the Revenue-officer shall record in the record-of-rights, to be prepared or revised in pursuance of such order, such particulars as may be prescribed.

Draft and final publication of the record-of-rights.

19. (1) When a record-of-rights has been prepared or revised so as to contain or include therein the particulars referred to in section 18, the Revenue-officer shall publish a draft of the record-of-rights so prepared or revised in the prescribed manner and for the prescribed period and shall receive and consider any objections which may be made to any entry therein or to any omission therefrom during the period of such publication.

(2) Any person aggrieved by an order passed by Revenue-officer on any objection made under sub-section (1) may appeal to the prescribed Revenue Authority not below the rank of an Assistant Settlement Officer in such manner and within such period as may be prescribed.

(3) When all such objections and appeals have been considered and disposed of according to such rules as the Provincial Government may make in this behalf, the Revenue-officer shall finally frame the record and shall cause such record to be finally published in the prescribed manner and the publication shall be conclusive evidence that the record has been duly prepared or revised under this Chapter.

(4) When a record-of-rights has been finally published under sub-section (3), the Revenue-officer shall, within such time as the Board of Revenue may fix in this behalf, make a certificate stating the fact of such final publication and the date thereof and shall date and subscribe the same with his name and official title.

Lands to be retained in the possession of rent-receivers, cultivating *rai-yats*, cultivating under-*rai-yats* and non-agricultural tenants.

20. (1) On the acquisition of the interests of rent-receivers in any area under Chapter V, no rent-receiver, cultivating *rai-yat*, cultivating under-*rai-yat* or non-agricultural tenant shall be entitled to retain possession of any of his *khas* lands in such area except as provided in sub-section (2).

(2) A rent-receiver, a cultivating *rai-yat*, a cultivating under-*rai-yat*, or non-agricultural tenant shall be entitled to retain, as a tenant under the Provincial Government, possession of—

- (a) lands covered by his homestead or any other building belonging to him, with necessary adjuncts thereto, other than such building or part of a

(Section 20.) -

¹building outside his homestead as is used primarily as office or *cutchery* for the collection of rents of any estate, *taluk* or tenure and may be decided to be acquired by the Provincial Government;

(b) lands in his *khas* possession of the following classes, namely:—

(i) lands used for agricultural or horticultural purposes including tanks,

(ii) lands which are cultivable or which are capable of cultivation on reclamation, and

(iii) vacant non-agricultural lands:

Provided that the aggregate quantity of all lands of the classes referred to in the clauses (a) and (b) in the whole province so retained in possession by a rent-receiver, a cultivating *raiyat*, a cultivating under-*raiyat* or a non-agricultural tenant shall not exceed one hundred standard bighas or an area determined by calculating at the rate of ten standard bighas for each member of his family, whichever is greater. In addition, he shall be entitled to retain an area of land equal to the area actually covered by his homestead or ten standard bighas, whichever is less.

¹¹*Explanation.*—For the purpose of clause (a), lands covered by buildings do not include *hats* or *bazars*.

(3) Allotments of lands, of which a rent-receiver, a cultivating *raiyat*, a cultivating under-*raiyat* or a non-agricultural tenant is entitled to retain possession under clause (b) of sub-section (2), shall be made by the Revenue-officer according to the choice of such rent-receiver, cultivating *raiyat*, cultivating under-*raiyat* or non-agricultural tenant or, where, no such choice is exercised within a prescribed period, according to the rules to be made in this behalf by the Provincial Government:

¹Provided that in exercising such choice, such rent-receiver, cultivating *raiyat*, cultivating under-*raiyat* or non-agricultural tenant shall retain the entire area of land held by each of the other members of his family if it is ten standard bighas or less and to the extent of at least ten standard bighas if it exceeds that quantity and that in allotting lands to a family, the Revenue-officer shall record them in the names of the persons who actually hold them:

¹This proviso was added by the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1958 (E. P. Ord. No. XLIV of 1958), section 8.

(Section 20.)

¹Provided further that when a rent-receiver, a cultivating *raiya*, a cultivating under-*raiya* or a non-agricultural tenant or any member of his family has mortgaged any land to the Agricultural Development Finance Corporation established under the Agricultural Development Finance Corporation Act, 1952, or to the House Building Finance Corporation established under the House Building Finance Corporation Act, 1952, or to the Agricultural Bank of Pakistan established under the Agricultural Bank Act, 1957, he shall, when exercising choice under this section, be bound to include in his choice all lands, so mortgaged, of the classes and up to the limit he is entitled to retain under sub-section (2) and when such a rent-receiver, a cultivating *raiya*, a cultivating under-*raiya* or a non-agricultural tenant has already exercised his choice under this section, but no Compensation Assessment-roll in respect of his excess *khas* land has been finally published, he shall be required to revise his choice in accordance with the provisions of this proviso.

Act XVII
of 1952.

Act
XVIII
of 1952.

Act XXIII
of 1957.

(4) Notwithstanding anything contained in sub-section (2), a rent-receiver, a cultivating *raiya* or a cultivating under-*raiya* or a group of rent-receivers, cultivating *raiya*s or cultivating under-*raiya*s who has or have undertaken large scale farming on a co-operative basis or otherwise by the use of power driven mechanical appliances, or large scale dairy farming may, if he is or they are certified in that behalf by the prescribed Revenue Authority, retain possession of and hold such quantity of lands in excess of the limit specified in the said sub-section as may be specified in the certificate granted by such Revenue Authority:

Provided that such a certificate shall be subject to revisions by the said Revenue Authority at such intervals as may be fixed in this behalf by the Provincial Government.

²(4A) Notwithstanding anything contained in sub-section (2), a person or persons holding land for the purposes of the cultivation and manufacture of tea or coffee or the cultivation of rubber or a company holding land for the cultivation of sugarcane for the purpose of manufacture of sugar by that company may, if he or it

¹This further proviso was added by the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1959 (E. P. Ord. No. XXXIX of 1959), section 4.

²This sub-section was inserted, *ibid.*

(Section 20.)

is or they are certified in that behalf by the prescribed Revenue Authority, retain possession of and hold such quantity of land in excess of the limit specified in the said sub-section as may be specified in the certificate granted by such Revenue Authority:

Provided that such a certificate shall be subject to revisions by the said Revenue Authority at such intervals as may be fixed in this behalf by the Provincial Government.

(5) (i) Nothing in sub-sections (1), (2) and (3) of this section shall apply—

1*	*	*	*	*
*	*	*	*	*

to any land covered by an orchard existing since the 14th April, 1956, or by a cassia leaf (*Tejpata*) garden existing since that date, or

(b) to any land covered by buildings or structures and necessary adjuncts thereto as are used for the purpose of any large scale industry with such other lands as are used for growing raw materials therefor, or

(c) to so much of the lands held under *debutter*, *wakf*, *wakf-al-al-aulad* or any other trust as is exclusively dedicated and the income from which is exclusively applied to religious or charitable purposes without reservation of pecuniary benefit for any individual.

(ii) Where, under any *debutter*, *wakf*, *wakf-al-al-aulad* or any other trust, the income from the lands covered by such trust is partly dedicated for religious or charitable purposes and partly reserved for the pecuniary benefit of any individual, only such portion of the lands, as may be selected in accordance with the rules to be made in this behalf by the Provincial Government, shall come within the purview of sub-clause (c) of clause (i).

Explanation.—For the purposes of sub-section (2) of this section—

(a) a rent-receiver, cultivating *raiayat*, cultivating under-*raiayat* or non-agricultural tenant shall be deemed to include a group of them who are members of the same family; and

¹This is how sub-clause (a) of clause (i) of sub-section (5) of section 20 reads after successive amendments by the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1958 (E. P. Ord. No. XLIV of 1958), section 8(2) and the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1959 (E. P. Ord. No. XXXIX of 1959), section 4 (iii).

(Sections 21—23.)

- (b) a family shall, when used in relation to a rent-receiver, cultivating *raiya*t, cultivating under-*raiya*t, or non-agricultural tenant, be deemed to consist of such rent-receiver, cultivating *raiya*t, cultivating under-*raiya*t or non-agricultural tenant and all persons living in the same mess with and dependant upon such rent-receiver, cultivating *raiya*t, cultivating under-*raiya*t or non-agricultural tenant, but does not include any servant or hired labourer living in the same mess.

Payment of rent for land retained in possession.

21. All lands, of which a rent-receiver, a cultivating *raiya*t, a cultivating under-*raiya*t or a non-agricultural tenant retains possession under section 20, shall be held on payment of such fair and equitable rent as may be determined under the provisions of this Act.

All lands to be liable to fair and equitable rent determined under this Chapter.

22. (1) Notwithstanding anything contained in any other law for the time being in force or in any entry made in the record-of-rights last prepared and finally published under Chapter X of the Bengal Tenancy Act, 1885, all lands in any district or part of a district or local area in respect of which a record-of-rights is prepared or revised under this Chapter shall be subject to the payment of fair and equitable rent determined in accordance with the provisions of this Chapter and the rent so determined shall be entered in the record-of-rights so prepared or revised:

Act VIII of 1885.

Provided that it shall not be necessary to determine under this Chapter, the rent of any land, the rent of which has already been determined under section 5 and the rent so determined shall be deemed to be fair and equitable rent determined in accordance with the provision of this Chapter.

(2) Where the fair and equitable rent determined or deemed to be determined for any land under the provisions of this Chapter has not taken effect earlier under any other provision of this Act, it shall take effect from the first day of the Agricultural year next following the date of publication of the notification under sub-section (2) of section 43 declaring that a Compensation Assessment-roll in respect of the area in which the land is situated has been finally published.

Determination of fair and equitable rents of *khas* lands.

23. In preparing or revising a record-of-rights under this Chapter, the Revenue-officer shall determine the rent of every parcel of land in the *khas* possession of a proprietor or tenure-holder, including a proprietor or tenure-holder

¹Section 22 was substituted for the former section 22 by the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1958 (E. P. Ord. No. XLIV of 1958), section 9.

of 1951.]

(Section 24.)

whose interests have been acquired under Chapter II, within the area to which such record relates—

- (i) if such land be agricultural land, ¹[at a rate which the Revenue-officer may deem fair and equitable having regard to the rates of rent generally] paid by occupancy *rai-yats* for lands of a similar description and with similar advantages in the same village or in the neighbouring villages, and
- (ii) if such land be non-agricultural land, at a rate which the Revenue-officer may deem fair and equitable having regard to—
 - (a) the rent generally paid to the Provincial Government, or to any other landlord for non-agricultural lands with similar advantages or of a similar description in the vicinity,
 - (b) the market value of the land immediately before the publication of the notification under section 17, and
 - (c) the rent which would be payable if the rate were fixed at not more than one *per centum* of such market value,

whether or not such proprietor or tenure-holder is entitled to retain possession of such parcel of land under section 20:

²Provided that in any estate, *taluk* or tenure, where a land revenue settlement was made within the last fifteen years, the rate of rent adopted as fair and equitable in such settlement may be taken to be the ³[fair and equitable] rent within the meaning of this section.

Explanation.—For the purposes of this section “land” does not include any building or structure standing thereon.

24. (1) In preparing or revising a record-of-rights under this Chapter, the Revenue-officer shall, subject to the provisions of sub-sections (2), (3) and (4), presume the rent, payable in respect of any land held by a *rai-yat* or an

Determina-
tion of fair
and equitable
rents of
rai-yats and
under-*rai-yats*

¹The words within square brackets were substituted for the words “on the basis of the prevailing rate of rent” by section 10(1) of the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1958 (E. P. Ord. No. XLIV of 1958).

²This proviso was substituted for the original proviso by section 6 of the East Bengal State Acquisition and Tenancy (Amendment) Act, 1954 (E. B. Act XII of 1954), which shall be deemed to have come into force on the first day of January, 1952.

³The words within square brackets were substituted for the words “prevailing rate of” by the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1958 (E. P. Ord. No. XLIV of 1958), section 10(2).

(Section 24.)

under-*raiayat* in the area to which such record relates at the time of preparation or revision of such record, to be fair and equitable.

(2) Where the rent so payable in respect of any such land by a *raiayat* is in the opinion of the Revenue-officer unfair or inequitable, he may reduce such rent ¹[to what is considered by him as fair and equitable, having regard to the rates of rent generally] paid by the occupancy *raiayats* for lands of a similar description and with similar advantages in the same village or in the neighbouring villages.

²(3) Where the rent payable for any land by an under-*raiayat* is, in the opinion of the Revenue-officer, unfair or inequitable, he may reduce such rent to an amount not exceeding the fair and equitable rent payable by an occupancy *raiayat* for lands of a similar description and with similar advantages in the same village or in the neighbouring villages, increased by fifty *per centum*.

(4) If any *raiayat* or under-*raiayat* pays, in respect of any land referred to in sub-section (1), rent either in kind or on the estimated value of a portion of the crop or at rates varying with the crop or in more than one of these ways, the Revenue-officer shall commute such rent to a fair and equitable money-rent at an amount not exceeding one-tenth of the total value of the annual gross produce of such land obtained by multiplying the normal annual yield of that land, determined in the manner prescribed, by the average price of each kind of produce prevailing in the preceding twenty years, excluding the years in which such prices were abnormal:

³[Provided that the Revenue-officer shall, at the time of commuting such rent to a fair and equitable money-rent, allow for the superior landlord of such *raiayat* or under-*raiayat* a margin of profit of not less than twenty-five *per centum* and not more than fifty *per centum* of the rents

¹The words and comma "to what is considered by him as fair and equitable, but not below" were substituted for the words "on the basis of" by section 7 of the East Bengal State Acquisition and Tenancy (Amendment) Act, 1954 (E. B. Act XII of 1954), which shall be deemed to have come into force on the first day of January, 1952.

The words "having regard to the rates of rent generally" were substituted for the words "but not below the prevailing rate of rent" by section 11 of the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1958 (E. P. Ord. XLIV of 1958).

²Sub-section (3) was substituted for the original sub-section (3) by section 7 of the East Bengal State Acquisition and Tenancy (Amendment) Act, 1954 (E. B. Act XII of 1954), which shall be deemed to have come into force on the 1st day of January, 1952.

³This proviso was added after substituting a colon for the full stop at the end of sub-section (4) of section 24, *ibid*.

(Sections 25, 25A.)

payable by the superior landlord of such *raiyyat* or under-*raiyyat*] ¹[when such superior landlord pays rents either in kind or on the estimated value of a portion of the crop or at rates varying with the crop or in more than one of these ways].

25. In preparing or revising a record-of-rights under this Chapter, the Revenue-officer shall determine the fair and equitable rent of all non-agricultural lands held by non-agricultural tenants other than a tenure-holder in accordance with the provisions of section 23 so far as they apply to non-agricultural lands:

Determina-
tion of fair
and equit-
able rents of
non-agricul-
tural tenants.

Provided that when any such tenant holds any such land immediately under any person other than a proprietor or a tenure-holder, the Revenue-officer shall presume the existing rent payable by such tenant for such land to be fair and equitable unless it exceeds by more than fifty *per centum* the fair and equitable rent payable in respect of such land by such person; and if it so exceeds, the Revenue-officer shall fix the rent of such land so held by such tenant at a rate not exceeding the rate of the fair and equitable rent payable for such land by such person by more than fifty *per centum*.

Enhance-
ment and
assess-
ment of
rent in cer-
tain cases.

²25A. (1) When the rent of a *taluk*, tenure, holding or tenancy is less than the rent or revenue payable by the landlord of such *taluk*, tenure, holding or tenancy to his superior landlord or the Provincial Government, as the case may be, the rent of such *taluk*, tenure, holding or tenancy may be enhanced by the Revenue-officer to an amount not less than the rent or revenue payable by such landlord in respect of such *taluk*, tenure, holding or tenancy:

Provided that when any such *taluk*, tenure, holding or tenancy comprises a portion of the land of the parent estate, *taluk*, tenure, holding or tenancy, the Revenue-officer shall, in determining the amount of enhancement of the rent under this section, take into consideration the rents payable to such landlord for any lands and the rental value of any lands in the khas possession of such landlord included in the remaining portion of the land of the parent estate, *taluk*, tenure, holding or tenancy.

¹These words were added at the end of the proviso to sub-section (4) of section 24 by section 7 of the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956 (E. B. Ord. No. III of 1956).

²Section 25A was inserted by the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1958 (E. P. Ord. No. XLIV of 1958), section 12.

(Sections 26—28.)

(2) Where any land held by a tenure holder, a *raiayat*, an under-*raiayat* or a non-agricultural tenant is liable to be assessed to rent, but no rent has been assessed in respect thereof, the Revenue-officer shall determine the rent payable by such tenure holder according to the principle of section 7 of the Bengal Tenancy Act, 1885, and by such *raiayat* or under-*raiayat* or non-agricultural tenant according to the principle of section 26. Act VIII of 1885..

Assessment
of rent for
rent-free

26. (1) Where any land is held by a *raiayat* or an under-*raiayat* free of rent the rent for such land shall be determined ¹[at a rate which the Revenue-officer may deem fair and equitable having regard to the rates of rent generally] paid by the occupancy *raiayats* for lands of a similar description and with similar advantages in the same village or in the neighbouring villages.

(2) Where any non-agricultural land is held by a tenant free of rent, the rent for such land shall be determined in accordance with the provisions of section 23 so far as they apply to non-agricultural lands.

Creation of
separate
holdings or
tenancies in
certain cases.

27. Where a rent-receiver other than a proprietor or tenure-holder holds only a portion of a holding or tenancy in his *khas* possession, such portion shall be constituted into a separate holding or tenancy and assessed to rent separately, and in making such assessment, the Revenue-officer shall have regard to the rent of the original holding or tenancy, the proportionate area and value of the new holding or tenancy and the provisions of this Chapter for the determination of fair and equitable rent of a holding or tenancy of that class.

2* * *

Assessment
of rents of
service
tenancies.

28. In preparing or revising a record-of-rights under this Chapter, the Revenue-officer shall fix, in respect of every land held within any area to which such record relates by a person who has been found on evidence produced before him to be entitled to hold such land free of rent in consideration of some service to be rendered, a rent ³[at a rate which the Revenue-officer may deem fair and equitable having regard to the rates of rent generally] paid by

¹The words within square brackets were substituted for the words "on the basis of the prevailing rate of rent" by section 13 of the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1958 (E. P. Ord. No. XLIV of 1958).

²The proviso to section 27 added by section 12 of E. B. State Acquisition and Tenancy (Amendment) Act, 1952 (E. B. Act VI of 1952) was omitted by section 8 of the East Bengal State Acquisition and Tenancy (Amendment) Act, 1954 (E. B. Act XII of 1954).

³The words within square brackets were substituted for the words "determined on the basis of the prevailing rate of rent" by the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1958 (E. P. Ord. No. XLIV of 1958), section 14.

of 1951.]

(Sections 29—31.)

occupancy *raiya*ts for lands of a similar description and with similar advantages in the same village or in the neighbouring villages and shall record such person in the record-of-rights as a *raiya*t:

Provided that nothing in this section shall apply to any land held within the boundaries of a tea estate or any other industrial organisation.

29. (1) All rents determined under this Chapter and entered in the record-of-rights finally published under section 19, shall, subject to the provisions of section 53, be deemed to have been correctly determined and to be fair and equitable for the purposes of this Act.

Effect of rents settled under this Chapter.

(2) No suit shall be brought in any Civil Court in respect of the determination of any rent to the determination of which the provisions of this Chapter apply or in respect of the omission to determine any such rent.

30. (1) After an order has been made under section 17 directing the preparation or revision of a record-of-rights in respect of any area, no Civil Court shall entertain any suit or application for the alteration of rent or determination of the status of any tenant or the incidents of any holding or tenancy in such area; and if any such suit or application relating to such area is pending before a Civil Court on the date of such order, it shall not be further proceeded with and shall abate.

Bar to jurisdiction of Civil Court.

Explanation.—Suit in this sub-section includes an appeal.

(2) No suit shall be brought in any Civil Court in respect of any order directing the preparation or revision of records-of-rights under this Chapter or in respect of framing, publication, signing or attestation of such record or any part of it.

(3) No suit, appeal or proceeding in a Civil Court or High Court in respect of any land, nor any order passed in such suit, appeal or proceeding, shall operate as a bar in any way to the preparation or revision of records-of-rights or of Compensation Assessment-rolls in accordance with the provisions of this Act.

31. (1) The Provincial Government may, instead of proceeding under section 17, by notification in the *Official Gazette*, order that a Compensation Assessment-roll be prepared under Chapter V in respect of any particular district, part of a district or local area, on the basis of the record-of-rights last prepared and finally published under Chapter X of the Bengal Tenancy Act, 1885, ¹[or Chapter IX of the Sylhet Tenancy Act, 1936,] without any revision or after revising or recording only such particulars in such record as may be specified in such notification.

Preparation of Compensation Assessment-roll on the basis of the existing record-of-rights.

VIII of 1885.
Assam Act XI of 1936.

¹The expression within square brackets was inserted by section 13 of the East Bengal State Acquisition and Tenancy (Amendment) Act, 1952 (E.B. Act VI of 1952).

(Sections 32, 33.)

(2) When an order is made under sub-section (1), the Revenue-officer shall revise or record such particulars, if any, in accordance with such rules as may be made in this behalf by the Provincial Government and settle fair and equitable rents according to the principles laid down in sections 23, 24, ¹[25, 25A], 26, 27 and 28, and shall then correct such record-of-rights so as to incorporate therein the particulars, if any, so revised or recorded and the fair and equitable rents so settled.

(3) A record-of-rights corrected under sub-section (2) shall be deemed to have been duly revised and finally published under this Chapter.

²(4) When an order is made under sub-section (1) in respect of any area, sections 105, 105A and 106 of the Bengal Tenancy Act, 1885, or sections 121, 122 and 123 of the Sylhet Tenancy Act, 1936, as the case may be, shall cease to apply to such area, and applications, suits or proceedings under those sections, pending on the date of such order, shall not be further proceeded with and shall abate.

Act VIII
of 1885.
Assam
Act XI
of 1936.

CHAPTER V.

Assessment of compensation and acquisition of interests of rent-receivers and of certain other interests.

Interpreta-
tion.

32. In this Chapter, a rent-receiver, proprietor or tenure-holder includes a rent-receiver, proprietor or tenure-holder, as the case may be, whose interests have been acquired under Chapter II.

Order for the
preparation
of a Compens-
ation
Assessment-
roll.

33. As soon as may be after a record-of-rights in respect of any district, part of a district or local area has been prepared or revised and finally published under Chapter IV, the Revenue-officer shall prepare in the prescribed form and in the prescribed manner a Compensation Assessment-roll in which the gross assets and the net income of all rent-receivers within such district, part or area and the compensation to be paid in accordance with the provisions of this Act to all persons whose interests are acquired under this Chapter or under Chapter II, together with such other particulars as may be prescribed, shall be specified:

¹The figures, comma and letter within square brackets were substituted for the figures "25" by the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1958 (E.P. Ord. No. XLIV of 1958), section 15.

²Sub-section (4) was added by section 13 of the East Bengal State Acquisition and Tenancy (Amendment) Act, 1952 (E.B. Act VI of 1952).

of 1951.]

(Sections 34, 35.)

¹Provided that it shall not be necessary to prepare, under this Chapter, a Compensation Assessment-roll in respect of any property acquired under Chapter II, in respect of which a Compensation Assessment-roll has been prepared under Chapter VA.

34. In preparing such Compensation Assessment-roll every proprietor, tenure-holder or other rent-receiver collecting rents in respect of any estate, tenure, holding or tenancy or part of any estate, tenure, holding or tenancy comprised within the area to which such roll relates shall, irrespective of whether he collects such rents separately or jointly with others, be treated separately for the purpose of assessment and payment of compensation under this Chapter:

Separate treatment of proprietors, tenure-holders and other rent-receivers in assessment and payment of compensation.

Provided that in the case of a Hindu undivided family governed by the *Mitakshara* law, all rent-receivers included in such family shall be treated jointly for such purpose:

²Provided further that when more than one proprietor, tenure-holder or other rent-receiver jointly hold rent-receiving interests and the total net income of such interests does not exceed five hundred rupees, such proprietors, tenure-holders or other rent-receivers may be treated jointly for the purpose of assessment of compensation under this Chapter.

35. (1) For the purpose of preparation of the Compensation Assessment-roll under this Chapter—

Calculation of gross assets and net income of rent-receivers.

(a) the gross assets of a rent-receiver shall be taken to consist of the aggregate of the rents and cesses which were payable to such rent-receiver by his immediately subordinate tenants—

(i) in the case of the interests acquired under Chapter II, for the agricultural year immediately preceding the notified date, and

(ii) in other cases, for the agricultural year immediately preceding that in which the record-of-rights is finally published under Chapter IV,

and where such rent-receiver is the proprietor of an estate or the holder of a tenure, also of the aggregate of the fair and equitable rents determined under Chapter IV for such of his *khas* lands as he retains possession of under section 20:

¹This proviso was added, after substituting a colon for the full-stop at the end of section 33, by section 14 of the East Bengal State Acquisition and Tenancy (Amendment) Act, 1952 (E. B Act VI of 1952).

²This further proviso was inserted, after substituting a colon for the full-stop at the end of the existing proviso, by section 9 of the East Bengal State Acquisition and Tenancy (Amendment) Act, 1954 (E. B. Act XII of 1954) which shall be deemed to have come into force on the 1st day of January, 1952.

(Sections 35, 36.)

Provided that in the case of ¹[a tenure-holder or] a *raiayat* or an under-*raiayat* or a non-agricultural tenant referred to in sections 24, ²[25, 25A], 27 and 28, the rent fixed or determined for any land under the provisions of the said sections and entered in the record-of-rights finally published under Chapter IV shall, for the purposes of this clause, be deemed to be the rent payable for such land for such year by such ³[tenure-holder or] *raiayat* or under-*raiayat* or non-agricultural tenant to his immediately superior landlord;

(b) the net income of a rent-receiver shall be computed by deducting from his gross assets the following :—

(i) the sums which were or are calculated as payable by such rent-receiver for such year as land revenue or rent and cesses to the Provincial Government or to his immediate landlord, as the case may be, in respect of the lands to which the gross assets relate;

(ii) the sum which was or is calculated as payable by such rent-receiver in respect of such assets for such year as tax under the Bengal Agricultural Income-tax Act, 1944;

Ben. Act
IV of
1944.

(iii) the sum which was or is calculated as payable by such rent-receiver in respect of his income from non-agricultural lands included in such assets for such year as tax under the Income-tax Act, 1922;

Act XI of
1922.

(iv) the average annual expenditure, if any, incurred by such rent-receiver on account of maintenance of any irrigation or protective works in such lands; and

(v) collection charges not exceeding twenty *per centum* of the gross assets.

(2) In calculating the sums referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1) or determining the expenditure and charges referred to in sub-clauses (iv) and (v) of the said clause, the Revenue-officer shall be guided by such rules as may be made in this behalf by the Provincial Government.

Net income
of a recusant
proprietor.

36. Notwithstanding anything contained in section 35, in the case of a recusant proprietor of a temporarily settled private estate, the *malikana* payable to such proprietor in

¹The words within square brackets were inserted by the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956 (E. B. Ordinance III of 1956), section 8.

²The figures, comma and letter within square brackets were substituted for the figures "25" by the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1958 (E.P. Ord. No. XLIV of 1958), section 16.

³The words within square brackets were inserted by section 8 of the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956 (E. B. Ordinance No. III of 1956).

(Section 37.)

the agricultural year referred to in sub-clause (i) or sub-clause (ii) of clause (a) of sub-section (1) of section 35, as the case may be, shall be deemed to be the net income of such proprietor computed under section 35.

37. After the net income has been computed under sections 35 and 36, the amount of compensation to be payable in respect of the acquisition of the interests of rent-receivers shall be determined as follows :—

Rates of compensation for rent-receiving interests.

✓ In the case where the rent-receiver is a proprietor of an estate, a holder of a permanent tenure or tenancy or a *raiyyat* or an under-*raiyyat*, the compensation payable in respect of the acquisition of the interests of such rent-receiver shall be determined on the basis of his total net income from rent-receiving interests in the Province in accordance with the following table, namely:—

<i>Amount of the total net income in the Province.</i>	<i>Rate of compensation payable,</i>
(a) Where the net income so computed does not exceed Rs.500.	Ten times such net income.
(b) Where the net income so computed exceeds Rs.500 but does not exceed Rs.2,000.	✓ Eight times such net income or the maximum amount under item (a) above increased by the excess of the net income over the maximum net income under item (a) above, whichever is greater.
(c) Where the net income exceeds Rs. 2,000 but does not exceed Rs. 5,000.	Seven times such net income or the maximum amount under item (b) above increased by the excess of the net income over the maximum net income under item (b) above, whichever is greater.
(d) Where the net income exceeds Rs. 5,000 but does not exceed Rs. 10,000.	Six times such net income or the maximum amount under item (c) above increased by the excess of the net income over the maximum net income under item (c) above, whichever is greater.
(e) Where the net income exceeds Rs.10,000 but does not exceed Rs. 25,000.	Five times such net income or the maximum amount under item (d) above increased by the excess of the net income over the maximum net income under (d) above, whichever is greater.

(Section 37.)

<i>Amount of the total net income in the Province.</i>	<i>Rate of compensation payable.</i>
(f) Where the net income exceeds Rs.25,000 but does not exceed Rs. 50,000.	Four times such net income or the maximum amount under item (e) above increased by the excess of the net income over the maximum net income under (e) above, whichever is greater.
(g) Where the net income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000.	Three times such net income or the maximum amount under item (f) above increased by the excess of the net income over the maximum net income under (f) above, whichever is greater.
(h) Where the net income exceeds Rs. 1,00,000.	Two times such net income or the maximum amount under item (g) above increased by the excess of the net income over the maximum net income under (g) above, whichever is greater.

(2) in the case where the rent-receiver is the holder of a temporary tenure or of any other tenancy of a temporary duration, the compensation payable to such rent-receiver in respect of the acquisition of the interest of such rent-receiver shall be paid out of the compensation payable under this Chapter to the immediately superior landlord of such rent-receiver for the acquisition of the interests of such superior landlord; and the Revenue-officer shall apportion the compensation between the holder of such temporary tenure or tenancy and his immediately superior landlord subject to rules made under this Act; and in making the apportionment the Revenue-officer shall take into consideration the unexpired period of the temporary tenure or tenancy; and

(3) in the case where the net income or any portion of the net income in respect of any estate, tenure, holding or tenancy wholly or partly held under *wakf*, *wakf-al-al-aulad*, *debutter* or any other trust or legal obligation has been dedicated and applied exclusively to charitable or religious purposes without any reservation of pecuniary benefit for any individual, the compensation payable for the acquisition of the interests of any rent-receiver in respect of the net income or the portion of the net income so dedicated and applied shall, instead of being assessed under clause (1), be assessed in the prescribed manner as a perpetual annuity equal to such net income or portion of the net income, as the case may be.

(Sections 38, 39.)

38. If a rent-receiver holds rent-receiving interests in more than one area, the amount of compensation payable for the acquisition of such interests shall be calculated and the Compensation Assessment-rolls in respect of such interests shall be prepared in accordance with such rules as may be made in this behalf by the Provincial Government.

Preparation of Compensation Assessment-roll in respect of a rent-receiver having interests in more than one area.

39. (1) Compensation to be payable to a rent-receiver, a cultivating *raiyat*, a cultivating under-*raiyat* or a non-agricultural tenant, in respect of the acquisition of lands in his *khas* possession which he is not entitled to retain under section 20, shall be determined in accordance with the following table :—

Rates of compensation for *khas* lands.

Class of lands.	Rate of compensation payable.
(a) For lands used for agricultural or horticultural purposes including tanks.	Five times the net annual profit from such lands.
(b) For lands on which <i>hats</i> or <i>bazars</i> are held.	Five times the net annual profit from such <i>hats</i> or <i>bazars</i> .
(c) For lands which are cultivable or which are capable of cultivation on reclamation—	
(i) lands bearing any profit.	Five times the net annual profit from such lands or ten times the annual <i>raiyati</i> rent for an equal area of cultivated land in the neighbourhood which the Revenue-officer may select as appropriate for the purpose, whichever is greater.
(ii) lands not bearing any profit.	Rupees ten per acre.
(d) For lands which consist of forest, jungle, water-courses or marshy tracts with or without private rights of fishery therein, and sandy <i>chars</i> or other uncultivable lands other than lands, such as roads, pathways, common burial or cremation grounds, rivers, <i>khals</i> and water courses, which the public may use by natural or customary right or right of easement.	Five times the net annual profit from such lands.

(Section 39.)

<i>Class of lands.</i>	<i>Rate of compensation payable.</i>
(e) For vacant non-agricultural lands.	Five times the annual letting value of the lands to be determined in the prescribed manner.
(f) For lands with buildings —	
(i) lands	Five times the annual letting value of the land to be determined in the prescribed manner.
(ii) buildings ..	The actual cost of construction less depreciation both to be determined in the prescribed manner.

(2) Any dispute regarding classification of lands for the purposes of sub-section (1) shall be referred to the prescribed Revenue Authority whose decision thereon shall be final.

(3) For the purpose of items (a) and (c) of sub-section (1), the net annual profit from land shall be determined in the following manner :—

- (a) the gross value of the annual produce of the land shall be calculated first by multiplying the normal annual produce of the land, determined in the prescribed manner, by the average price of each kind of produce during the 10 years immediately preceding the year in which the assessment-roll is prepared;
- (b) the net annual profit shall be computed by deducting from the gross value of the annual produce of the land, the following:—
 - (i) the sum determined in the prescribed manner as the cost of cultivation which shall not exceed fifty *per centum* of the gross value of the annual produce of the land ;
 - (ii) the sum which is calculated as payable by the rent-receiver or cultivating *raiyyat* or cultivating under-*raiyyat* or non-agricultural tenant annually as land revenue or rent and cesses in respect to the land ;
 - (iii) the sum which was or is calculated as payable by such rent-receiver or cultivating *raiyyat* or cultivating under-*raiyyat* in respect of the income from such lands as taxes under the Bengal Agricultural Income-tax Act, 1944 ; and

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(Section 40.)

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1922.

(iv) the sum which was or is calculated as payable by such a rent-receiver or non-agricultural tenant in respect of the income from the lands as taxes under the Income-tax Act, 1922.

(4) For the purposes of items (b) and (d) of sub-section (1), the net annual profit shall mean the net annual profit as determined by the Revenue-officer in accordance with the rules made in this behalf by the Provincial Government.

(5) Where the land, held by a cultivating *raiya*t or a cultivating under-*raiya*t or a non-agricultural tenant, for which compensation is payable under sub-section (1), is subject to a mortgage, the compensation payable under the said sub-section to such cultivating *raiya*t or cultivating under-*raiya*t or non-agricultural tenant shall be apportioned between such *raiya*t or under-*raiya*t or tenant and his mortgagee; and the Revenue-officer shall apportion such compensation in accordance with rules made in this behalf under this Act; and in making the apportionment the Revenue-officer shall, in the case where the mortgage is an usufructuary mortgage, take into consideration the unexpired period of such mortgage.

40. (1) After the amount of compensation to be payable in respect of the acquisition of the interests of rent-receivers and of the acquisition of the *khas* lands of rent-receivers, cultivating *raiya*t, cultivating under-*raiya*t and non-agricultural tenants, which are to be acquired under this Chapter or have been acquired under Chapter II, has been determined in accordance with the provisions of sections 37, 38 and 39, the Revenue-officer shall prepare the Compensation Assessment-roll under section 33; and when such roll has been prepared, the Revenue-officer shall cause a draft of it to be published in the prescribed manner and for the prescribed period which shall not be less than thirty days and shall receive and consider any objection which may be made to any entry therein or to any omission therefrom during the period of publication and shall dispose of such objections according to such rules as the Provincial Government may make in this behalf:

Preliminary
publication
of Compensation
Assessment-roll.

¹Provided that no objection shall be made under this section—

(i) by any person who does not claim any title to any compensation entered in the draft Compensation Assessment-roll, or

¹This proviso was inserted, after substituting a colon for the full-stop at the end of sub-section (1) of section 40, by section 10 of the East Bengal State Acquisition and Tenancy (Amendment) Act, 1954 (E. B. Act XII of 1954), which shall be deemed to have come into force on the 1st day of January, 1952.

(Sections 41—43.)

- (ii) to the amount of any rent entered in such roll which has been determined under section 5 or under Chapter IV or under sub-section (2) of section 46A.

(2) Separate draft Compensation Assessment-rolls may be prepared and published under sub-section (1) for different villages or groups of villages in the district, part of a district or local area or for one or more persons having interests in different areas in respect of which a record-of-rights has been prepared or revised and finally published under Chapter IV.

Appeal to superior Revenue Authority.

41. An appeal, if presented within two months from the date of the order appealed against, shall lie from every order passed by a Revenue-officer under sub-section (1) of section 40 to the prescribed superior Revenue Authority; and such superior Revenue Authority shall consider and dispose of such appeals in accordance with rules made in this behalf by the Provincial Government.

Final publication of the Compensation Assessment-roll.

42. When all such objections and appeals have been disposed of, the Revenue-officer shall make such alterations in the draft Compensation Assessment-roll as may be necessary to give effect to any orders passed on objections made under sub-section (1) of section 40 or on appeals preferred under section 41 and shall cause the said roll as so altered to be finally published in the prescribed manner; and the publication shall be conclusive evidence that the Compensation Assessment-roll has been duly made under this Chapter, and every entry in the Compensation Assessment-roll so finally published shall, except as hereinafter provided, be final and conclusive evidence of the matter referred to in such entry and also of the nature of the interests of the rent-receivers, the true area of the land and the apportionment of the compensation among the persons claiming interest therein.

Certificate and presumption as to final publication of Compensation Assessment-roll.

43. (1) When a Compensation Assessment-roll has been finally published under section 42, the Revenue-officer shall, within such time as the Commissioner may, by general or special order require, make a certificate stating the fact of such final publication and the date thereof and shall date and subscribe the same with his name and official title.

(2) After the final publication under section 42 of the Compensation Assessment-roll in respect of any village or group of villages or local area, the Provincial Government shall also by notification declare that a Compensation Assessment-roll has been finally published for such village or group of villages or local area, as the case may be,

of 1951.]

(Section—44.)

specifying in such notification the date of such final publication; and such notification shall be conclusive proof of such publication and of the date thereof.

44. Notwithstanding anything contained in any other law for the time being in force or in Chapter II of this Act or in any contract, but subject to the provisions of clauses (a), (b), (c) and (d) of sub-section (4) of section 3¹[and sub-section (3) of section 46E], on the publication of a notification in the *Official Gazette* under sub-section (2) of section 43, declaring that a Compensation Assessment-roll has been finally published, the following consequences shall ensue, namely :—

Acquisition and vesting of the interests of proprietors, tenure-holders and other rent-receivers and of certain *khas* lands in the Provincial Government and the consequences thereof.

- (1) all the interests of all the proprietors in their respective estates, of all the tenure-holders in their respective tenures and of all other rent-receivers in the holdings or tenancies respectively let out by such rent-receivers within the area to which such roll relates or in such parts of such estates, tenures or holdings, or tenancies, as the case may be, as are within such area including the interests of all such proprietors, tenure-holders and other rent-receivers in all lands comprised in such estates, tenures and holdings or tenancies or part of such estates, tenures and holdings or tenancies within such area which are in the *khas* possession of such proprietors, tenure-holders and other rent-receivers and the interests of all such rent-receivers in all sub-soil including any rights to minerals in such estates, tenures and holdings or tenancies or part of such estates, tenures and holdings or tenancies within such area other than the interests which have already been acquired under Chapter II¹[or sub-section (3) of section 46E] shall, with effect from the first day of the agricultural year next following the date of publication of such notification in the *Official Gazette*, be deemed to have been acquired by the Provincial Government and vest absolutely in the Provincial Government free from all encumbrances but subject to the rights of such proprietors, tenure-holders and other rent-receivers specified in clause (2);
- (2) each proprietor, tenure-holder and other rent-receiver, whose interests in any estate, tenure or holding or tenancy or in any part of any estate, tenure or holding or tenancy, as the case may be,

¹ The words, figures, brackets and letter within square brackets were inserted by the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956 (E. B. Ordinance III of 1956), section 9.

(Section 44.)

within the area to which such roll relates, are acquired under this Act, shall, with effect from the first day of the agricultural year next following the date of publication of such notification in the *Official Gazette*, be entitled to retain possession of and hold, subject to the provisions of this Act, as a tenant directly under the Provincial Government all lands of which he is entitled to retain possession under Chapter IV and, be liable to pay rent for such lands to the Provincial Government ;

- (3) the interests of all cultivating *raiya*ts, cultivating under-*raiya*ts and non-agricultural tenants in all lands held by such *raiya*ts, under-*raiya*ts and non-agricultural tenants within the area to which such roll relates in excess of the lands of which such *raiya*ts, under-*raiya*ts or non-agricultural tenants are entitled to retain possession under Chapter IV, including the interests in the sub-soil of all lands so held in excess and all rights to minerals therein ¹[other than the interests which have already been acquired under any other provision of this Act] shall, with effect from the first day of the agricultural year next following the date of publication of such notification in the *Official Gazette*, be deemed to have been acquired by the Provincial Government and vest absolutely in the Provincial Government free from all encumbrances ;
- (4) all cultivating *raiya*ts, cultivating under-*raiya*ts and other tenants holding lands, within the area to which such roll relates, immediately before the first day of the agricultural year next following the date of such publication of such notification, shall, with effect from the first day of the said agricultural year, ²[if they have not already become tenants directly under the Provincial Government under any other provision of this Act,] become tenants directly under the Provincial Government and shall have the right to continue to hold, subject to the provisions of this Act, as tenants under the Provincial Government, such of those lands as have not vested in the Provincial Government under item (3) ³[or under

¹The words within square brackets were inserted by the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956 (E. B. Ordinance III of 1956), section 9.

²The words and comma within square brackets were inserted by section 9, *ibid*.

³The words within square brackets were inserted by section 9, *ibid*.

51.]

(Section 44.)

any other provision of this Act] and shall be liable to pay rent to the Provincial Government in respect of the lands so continued to be held;

all arrears of revenue and all cesses together with interest, if any, payable thereon, other than the arrears, cesses and interest referred to in clause (b) of sub-section (4) of section 3, remaining lawfully due on the first day of the agricultural year next following the date of such publication of such notification in respect of any estate within the area to which such roll relates shall, after the first day of the said agricultural year, continue to be recoverable from the outgoing proprietor by whom they were payable, and shall, without prejudice to any other mode of recovery, be recoverable by the deduction of the amount of such arrears and cesses and interest from the compensation money payable to such proprietor under this Act, when so ordered by the Collector ;

all amounts, recoverable by the Provincial Government from a rent-receiver under the Bengal Embankment Act, 1882 ¹[or the East Bengal Embankment and Drainage Act, 1952], which remain outstanding on the first day of the agricultural year next following the date of such publication of such notification and are not already covered by clause (d) of sub-section (4) of section 3, whether on account of arrear dues or dues under future instalments under the Bengal Embankment Act, 1882 ¹[or the East Bengal Embankment and Drainage Act, 1952], shall, without prejudice to any other mode of recovery, be recoverable by deduction of the amount of such arrear and future instalments from the compensation money payable to such rent-receiver in respect of the interests or lands to which such outstanding amounts relate, when so ordered by the Collector ;

ia) all arrears of agricultural income-tax recoverable by the Provincial Government from a person under the Bengal Agricultural Income-tax Act, 1944, which remain outstanding on the first day of the agricultural year next following the date of such publication of such notification and are not already covered by clause (dd) of sub-section (4) of section 3, shall, without prejudice to any other mode

words, comma and figures within square brackets were inserted by the East Pakistan Repealing and Amending Ordinance, 1960 (E. P. VIII of 1960), First Schedule.

so (6a) was inserted by the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1959 (E. P. XXXIX of 1959), section 5.

of 1951.]

(Sections 46, 46A.)

such notification is published relates, a proclamation in the local vernacular—

- (a) explaining the consequences which as provided in section 44 have ensued on such publication of such notification, and
- (b) directing all persons in such area, who will become tenants under the Provincial Government with effect from the first day of the agricultural year next following the date of such publication of such notification, to pay rent to the Provincial Government and not to anybody else.

46. (1) After the Compensation Assessment-roll or Compensation Assessment-rolls in respect of all estates, tenures and interest of rent-receivers in holdings or tenancies comprised within a district, part of a district or local area, in respect of which a record-of-rights has been prepared or revised and finally published under Chapter IV, has or have been published, such record-of-rights shall be modified by eliminating therefrom the entire chain of interests of rent-receivers and showing therein only the tenants who will come directly under the Provincial Government as a result of the acquisition of such interests; and one or more numbers to be borne on the Revenue-roll of the district shall be assigned by the Collector in respect of the areas to which such record-of-rights relates in accordance with such rules as the Provincial Government may make in this behalf; and the record-of-rights so modified shall be reprinted.

Printing and distribution of record-of-rights.

(2) Copies of the record-of-rights so reprinted shall be distributed free of cost to the tenants of the areas to which such record-of-rights relates in such manner as may be prescribed.

CHAPTER VA.

Special provisions for preparation of Compensation Assessment-rolls in respect of properties acquired under Chapter II.

46A. (1) The Provincial Government may, instead of proceeding under section 17 or section 31, by notification in the *Official Gazette*, order that a Compensation Assessment-roll be prepared in respect of the properties of any rent-receiver acquired under section 3 on the basis of the returns, papers and documents furnished or taken possession of under sections 3A and 4.

Preparation of Compensation Assessment-roll in special cases.

¹Chapter VA (containing sections 46A, 46B, 46C, 46D and 46E) was inserted by the East Bengal State Acquisition and Tenancy (Amendment) Act, 1952 (E. B. Act VI of 1952), section 15.

(Sections 46B, 46C.)

(2) When an order is made under sub-section (1), the Revenue-officer shall verify such returns, papers and documents in the prescribed manner and make such corrections therein as may be necessary, and settle fair and equitable rents of all tenants¹ immediately subordinate to such rent-receiver according to the principles laid down in sections 24, ²[25, 25A], 26 and 28.

(3) The Revenue-officer shall, after taking action under sub-section (2), prepare in the prescribed form and in the prescribed manner a Compensation Assessment-roll in which the gross assets and the net income of such rent-receiver and the compensation to be paid to him in accordance with the provisions of this Act, together with such other particulars as may be prescribed, shall be specified.

Bar to jurisdiction of Civil Court.

46B. After an order has been made under section 46A, no Civil Court shall entertain any suit or application for the alteration or determination of rent of any land for which fair and equitable rent is required to be settled under sub-section (2) of that section; and if any such suit or application is pending before a Civil Court on the date of such order, it shall not be further proceeded with and shall abate.

Application of the provisions of sections 34 to 43 in the preparation of Compensation Assessment-roll under Chapter VA.

46C. In the matter of preparation and publication of a Compensation Assessment-roll under this Chapter,—

- (a) the provisions of sections 34, 38 and 40 to 43 shall apply so far as they are applicable;
- (b) the provisions of sections 37 and 39 shall apply in whole; and
- (c) the provisions of section 35 shall apply subject to the following amendment, namely:—
for clause (a) of sub-section (1) of section 35, the following clause shall be deemed to have been substituted, namely:—

“(a) the gross assets of a rent-receiver shall be taken to consist of the aggregate of the rents and cesses which were payable to such rent-receiver by his immediately subordinate tenants for the agricultural year immediately preceding the notified date, and where such rent-receiver is the proprietor of an estate or the holder of a

¹The words “except tenure holders” were omitted by the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956 (E. B. Ordinance III of 1956), section 10.

²The figures, comma and letter within square brackets were substituted for the figures “25” by the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1958 (E. P. Ord. No. XLIV of 1958), section 17.

of 1951.]

(Sections 46D, 46E.)

tenure, also of the aggregate of the fair and equitable rents determined under section 5 for such of his *khas* lands in that estate or tenure as he chooses to retain possession of under section 20:

Provided that in the case of ¹[a tenure holder or] a *raiyyat* or an under-*raiyyat* or a non-agricultural tenant, the rent determined for any land, under sub-section (2) of section 46A, according to the principles of sections 24, ²[25, 25A] and 28, shall, for the purposes of this clause, be deemed to be the rent payable for such land for such year by such *raiyyat*, under-*raiyyat* or non-agricultural tenant to his immediately superior landlord;”.

46D. Notwithstanding anything contained in clause (c) of section 46C, in the case of a recusant proprietor of a temporarily settled private estate, the *malikana* payable to such proprietor in the agricultural year immediately preceding the notified date shall be deemed to be the net income of such proprietor computed under the said clause.

Net income of a recusant proprietor under Chapter VA.

46E. Notwithstanding anything contained in Chapter II, on the publication of a notification under sub-section (2) of section 43, declaring that a Compensation Assessment-roll prepared under this Chapter, has been finally published,—

Conces of final publication of Compensation Assessment-roll under Chapter VA.

- (1) all tenants who became tenants directly under the Provincial Government under clause (e) of sub-section (4) of section 3 shall, with effect from the first day of the agricultural year next following the date of publication of such notification, pay to the Provincial Government rent for the lands held by them at the rates determined under this Chapter;
- (2) with effect from the first day of the agricultural year next following the date of such publication of such notification, the *ad interim* payments under section 6 or section 6A, in respect of the rent-receiving interests or lands for which compensation has been assessed in the Compensation Assessment-roll to which such notification relates, shall cease; and the total amount of *ad interim* payments made under sub-section

¹These words were inserted by the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956 (E. B. Ordinance III of 1956), section 11.

²The figures, comma and letter within square brackets were substituted for the figures “25” by the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1958 (E. P. Ord. No. XLIV of 1958), section 18.

(Sections 47, 48.)

(1) or (2) of section 6 in respect of any such interests or lands, less an amount calculated at the rate of three *per centum per annum* on the amount of compensation assessed for such interests or lands in such roll from the date from which such *ad interim* payments for such interests or lands became payable under sub-section (1) or (2) of section 6 till the last day of the agricultural year in which such notification is so published, shall be deducted from the amount of such compensation;

¹(3) with effect from the first day of the Agricultural year next following the date of such publication of such notification, the interest of a rent-receiver in all lands in his *khas* possession of which he is not entitled to retain possession under section 20 and for which compensation has been assessed in such Compensation Assessment-roll shall, if not already acquired under sub-section (2) of section 3, be deemed to have been acquired by the Provincial Government and vest absolutely in the Provincial Government free from all encumbrances.

CHAPTER VI.

Authorities for the preparation of Compensation Assessment-roll.

Revenue and
Judicial au-
thorities.

47. There shall be the following authorities for the purposes of this Part of this Act:—

- (a) the Commissioner of State Purchase;
- (b) the Director of Land Records and Surveys;
- (c) Settlement Officers and Assistant Settlement Officers;
- (d) other Revenue-officers;
- (e) Special Judges.

Appoint-
ments and
powers.

48. (1) The Commissioner of State Purchase shall be appointed by the Provincial Government.

(2) The Commissioner of State Purchase shall, in respect of the whole of ²[East Pakistan], exercise the powers conferred and perform the duties imposed on him by this

¹Clause (3) was added, after substituting a semi-colon for the full-stop at the end of sub-section (2) of section 46E, by the East Bengal State Acquisition and Tenancy (Amendment) Act, 1954 (E. B. Act XII of 1954), section 12.

²The words within square brackets were substituted for the words "East Bengal" by the East Pakistan Repealing and Amending Ordinance, 1960 (E. P. Ord. XXVIII of 1960), First Schedule.

(Section 49.)

Act and by such rules as may be made under this Act. He shall also exercise general powers of superintendence and control over the Director of Land Records and Surveys and through him over all other officers subordinate to him.

(3) The Director of Land Records and Surveys shall exercise such powers and perform such duties of a Revenue-officer under this Act or any rules made thereunder as may be conferred or imposed on him.

(4) The Provincial Government may appoint one or more persons who has or have exercised the powers of a District Judge or a Subordinate Judge to be a Special Judge or Special Judges for the purposes of hearing appeals which may be preferred to him or them under the provisions of this Act and of inquiring into disputes as to the title to receive any compensation under a Compensation Assessment-roll finally published under section 42 or as to the apportionment of any compensation referred to him under section 60.

149. The Commissioner, or any officer not inferior in rank to that of a Collector of a district empowered in this behalf by the Commissioner, or a Settlement Officer so empowered, may, on application, direct the revision of any Compensation Assessment-roll or any portion of such roll and any record-of-rights or any portion of record-of-rights on the basis of which such roll has been prepared, at any time during the preparation of such roll and may direct such revision on an application made within three months from the date of final publication of such roll and may also, of his own motion, direct such revision at any time before payment of compensation, but so as not to affect any order passed by the superior Revenue Authority under section 41 or by the Special Judge under section 51 or under sub-section (4) of section 52 or under section 53:

Revision of
Compensation
Assessment-roll.

¹Section 49 and the proviso to it were substituted for the former section 49 by the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956 (E. B. Ordinance III of 1956), section 12. The original section 49 as amended by E. B. Act V of 1955 and the proviso thereto read as follows:—

“49. The Commissioner, or any officer not inferior in rank to that of a Collector of a district, or a Settlement Officer, empowered in this behalf by the Commissioner may, on application or of his own motion, direct the revision of any Compensation Assessment-roll or any portion of such roll at any time during the preparation of such roll or within three months from the date of final publication of such roll but so as not to affect any order passed by the superior Revenue Authority under section 41 or by the Special Judge under section 51 or under section 53 or under sub-section (4) of section 52:

Revision of
the Com-
pensation
Assessment-
roll by the
Commis-
sioner.

Provided that no such direction shall be issued unless not less than 15 days' notice has been given to the parties concerned to appear and be heard in the matter.”

(Sections 50—52.)

Provided that no such direction shall be issued unless not less than fifteen days' notice has been given to the parties concerned to appear and be heard in the matter.

Correction
by Revenue-
officers of
bona fide
mistakes.

50. A Revenue-officer may, on application or of his own motion at any time before payment of compensation in accordance with a Compensation Assessment-roll under section 58, correct any entry in the record-of-rights prepared or revised and finally published under Chapter IV in respect of any area to which such Compensation Assessment-roll relates, or any entry in such Compensation Assessment-roll, if he is satisfied that such entry has been made owing to a *bona fide* mistake or correction of such entry is necessary as a result of succession to or transfer of the interest of a rent-receiver, cultivating *raiyyat*, cultivating under-*raiyyat* or non-agricultural tenant * * *

Provided that no such correction shall be made if an appeal affecting such entry has been presented under section 51 or section 53 or until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

Appeal to
the Special
Judge.

51. (1) Any person, aggrieved by an order of the superior Revenue Authority under section 41 or of the Commissioner or other officer under section 49 may present an appeal against such order within sixty days from the date of the final publication under section 42 of the Compensation Assessment-roll to which such appeal relates or of the order appealed against, whichever is later, to the Special Judge appointed under sub-section (4) of section 48.

(2) When a Revenue-officer refers under section 60 to any Special Judge any dispute which has arisen as to the title of any person to receive any compensation payable under the Compensation Assessment-roll or as to the apportionment of any such compensation or any part thereof, such Special Judge shall inquire into such dispute and decide the same; and such decision shall, subject to the provisions of section 52, be final.

Statement of
case by
Special Judge
to the High
Court.

52. (1) Any party aggrieved by an order of the Special Judge may, within sixty days from the date of such order by application in the prescribed form accompanied, when the application is made by any party other than the Provincial Government, by a fee of fifty rupees, require the

*The words "whose name appears in such roll as a person entitled to compensation" were omitted by the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1958 (E. P. Ord. No. XLIV of 1958), section 19.

(Section 53.)

Special Judge to refer to the High Court any question of law arising out of such order; and the Special Judge shall, within ninety days of the receipt of such application, draw up a statement of the case and refer it to the High Court :

Provided that, if in the exercise of the powers under sub-section (2) the Special Judge refuses to state a case which he has been required by any party other than the Provincial Government to state, such party may, within thirty days from the date on which he receives notice of the refusal to state the case, withdraw the application; and if he does so, the fee paid shall be refunded.

(2) If on any application being made under sub-section (1) the Special Judge refuses to state the case on the ground that no question of law arises, the party who made such application may, within sixty days from the date on which such party is served with notice of the refusal, apply to the High Court; and the High Court may, if it is not satisfied of the correctness of the decision of the Special Judge, require the Special Judge to state the case and to refer it; and on receipt of any such requisition the Special Judge shall state the case and refer it accordingly.

(3) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the High Court may refer the case back to the Special Judge to make such additions thereto or alterations therein as the High Court may direct in that behalf.

(4) The High Court upon the hearing of any such case shall decide the questions of law raised thereby and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send a copy of such judgment under the seal of the Court and the signature of the Registrar to the Special Judge who shall pass such orders as are necessary to dispose of the case conformably to such judgment.

(5) When a reference is made to the High Court, the cost shall be in the discretion of the Court.

53. Any person aggrieved by an order of the Revenue Authority under sub-section (2) of section 19 passed on appeal filed in respect of the determination of rent or recording of possession of any land, or by an entry made in a record-of-rights under sub-section (2) of section 31 relating to the determination of rent or recording of possession of

Appeal to the
Special Judge

(Sections 54—57.)

any land ¹[or by an order settling fair and equitable rent of any land under sub-section (2) of section 46A], may present an appeal against such order or entry, within three months from the date of the final publication under section 42 of the Compensation Assessment-roll to which such appeal relates, to the Special Judge appointed under sub-section (4) of section 48. The decision of the Special Judge on such an appeal shall, notwithstanding anything contained in section 52, be final.

Correction of the Compensation Assessment-roll.

54. The Revenue-officer shall make such alterations in the records-of-rights or the Compensation Assessment-roll as may be necessary to give effect to any direction issued by the Commissioner or other officer under section 49 or an order made by a Special Judge under section 51 or section 53 or under sub-section (4) of section 52 or to any final order or decree of a Civil Court or High Court passed in any suit, appeal or proceeding declaring title to and, or possession of any land.

Application of the Civil Procedure Code to appeals before and enquiries by a Special Judge.

55. The provisions of the Code of Civil Procedure, V of 1908, 1908, shall, as far as may be, apply to all appeals presented to a Special Judge under sub-section (1) of section 51 or under section 53 and to all inquiries held by him under sub-section (2) of section 51.

Bar to raising of certain issues.

56. No party to a suit, appeal or proceeding in a Civil Court or High Court in respect of any land shall, notwithstanding anything elsewhere contained in this Act, be entitled to raise before a Revenue-officer, Revenue Authority, Special Judge or the Commissioner or any other officer under section 19, 40, 41, 49, 51, 53 or 60 any issue in respect of such land, which is substantially in issue in such suit, appeal or proceeding.

CHAPTER VIII.

Payment of Compensation.

Limits of, and amount payable as, compensation.

57. (1) Notwithstanding anything contained elsewhere in this Act or in any Compensation Assessment-roll as finally modified under section 54, no rent-receiver shall be entitled to receive on account of compensation for the acquisition of his rent-receiving interests any amount in excess of the amount calculated on his total net income from all his rent-receiving interests in all estates, tenures, holdings and tenancies held by him within the Province at the rate applicable to such net income under section 37.

¹The expression within square brackets was inserted by the East Bengal State Acquisition and Tenancy (Amendment) Act, 1952 (E. B. Act VI of 1952), section 16.

(Section 58.)

(2) When a rent-receiver holds rent-receiving interests in different areas, the Revenue-officer shall, before making payment under section 58 of the compensation payable to him under a Compensation Assessment-roll as finally modified under section 54 for the acquisition of his rent-receiving interests in any such area, ascertain in the prescribed manner if any amount has been paid to such rent-receiver on account of compensation for the acquisition of his rent-receiving interests in any other area or areas in excess of the amount admissible under sub-section (1) and, if any such excess payment is found to have been made, deduct the amount of such excess from the amount of the compensation payable to him under such roll for the acquisition of such interests:

Provided that no such deduction shall be made until a reasonable notice has been given to the rent-receiver to appear and be heard in the matter:

Provided further that an appeal, if presented within thirty days from the date of the order making such deduction, shall lie against such order to the prescribed superior Revenue Authority whose order thereon shall be final.

(3) When any amount is deducted under sub-section (2) from the amount of any compensation payable to a rent-receiver under a Compensation Assessment-roll for the acquisition of his rent-receiving interests, the balance, if any, remaining after such deduction shall, for the purpose of section 58, be deemed to be the compensation payable to such rent-receiver in respect of such interests in the terms of the said roll.

58. (1) When the time within which appeals under section 51 or under section 53 may be made in respect of any entry in or omission from a Compensation Assessment-roll has expired and, where any such appeal has been made under section 51, the time within which a reference may be made to the High Court under section 52 with regard to any order made by the Special Judge in relation to such appeal has also expired and all references made under section 52 in relation to all such appeals have been disposed of and all orders under sub-section (4) of that section arising out of such references have been passed and, where any appeal has been made under section 53, such appeal has been disposed of, the Revenue-officer shall proceed to make payment to the proprietors, tenure-holders and other rent-receivers, and to any groups of proprietors, tenure-holders or other rent-receivers and to the cultivating *rai-yats*, cultivating under-*rai-yats* and other persons, who are shown in such Compensation Assessment-roll as finally modified under section 54 to be entitled to compensation, of the compensation payable to them in the terms of the said roll after

Manner of
payment of
compensa-
tion.

(Section-58.)

deducting from the amount of any compensation so payable any amount which has been ordered by the Collector to be so deducted under ¹[clause (b), (c), (d) or (dd)] of sub-section (4) of section 3 or ²[clause (5), (6), (6a) or (7)] of section 44 and also any amount to be deducted from such compensation under clause (8) of section 44 ³[or clause (2) of section 46E] ⁴[or section 76B] and any amount recoverable from such compensation under Chapter X:

Provided that if a rent-receiver applied for scaling down his debts under Chapter X of this Act, only half of the total amount of compensation payable to him under a Compensation Assessment-roll, less any amount to be deducted under ¹[clause (b), (c), (d) or (dd)] of sub-section (4) of section 3 or ²[clause (5), (6), (6a), (7) or (8)] of section 44 ³[or clause (2) of section 46E] ⁴[or section 76B], shall be paid to him and the payment of the other half shall be withheld until such application is disposed of and all debts recoverable from compensation money under that Chapter are recovered in accordance with the provisions of sub-section (7) of section 71:

Provided further that no compensation payable to any person under a Compensation Assessment-roll for any land with building shall be paid till the Provincial Government takes *khas* possession of such land and building.

(2) The amount of compensation so payable shall be paid in cash or in bonds or partly in cash and partly in bonds. The bonds shall be non-negotiable and payable in not more than forty annual instalments to the person named therein or his successor-in-interest and shall carry interest at three *per centum per annum* with effect from the date of issue.

(3) If any person, entitled to receive such compensation in respect of any estate, tenure or holding or part thereof or any land, had no power to alienate such estate, tenure, holding, part or land, or if there be any dispute as to the

¹The words, brackets, letters and commas within square brackets were substituted for the words, brackets, letters and comma "clause (b), (c) or (d)" by the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1959 (E. P. Ord. No. XXXIX of 1959), section 6.

²The words, brackets, figures, letter and commas within square brackets were substituted for the words, brackets, figures and comma "clause (5), (6) or (7)", *ibid.*

³These words, figures, brackets and letter were inserted by the East Bengal State Acquisition and Tenancy (Amendment) Act, 1952 (E. B. Act VI of 1952), section 17.

⁴These words, figures, and letter were inserted by the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956 (E. B. Ordinance III of 1956), section 13.

⁵The words, brackets, figures, letter and commas within square brackets were substituted for the words, brackets, figures and commas "clause (5), (6), (7) or (8)" by the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1959 (E. P. Ord. XXXIX of 1959), section 6 (b).

(Section 59.)

title to receive the compensation or as to the apportionment of it, the Revenue-officer shall keep the amount of compensation, or the bonds in which it is to be paid, in deposit with the Collector of the district:

Provided that nothing herein contained shall affect the liability of any person who may receive the whole or any part of any compensation awarded under this Act to pay the same to the person lawfully entitled thereto.

(4) Notwithstanding anything contained in sub-sections (2) and (3), an annuity referred to in clause (3) of section 37 shall be paid to the Commissioner of Wakfs in the case of a *wakf* or *wakf-al-al-aulad* and to a trustee to be appointed in this behalf by the Provincial Government in any other case.

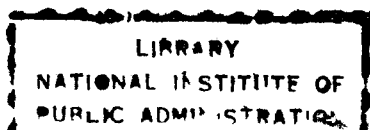
59. (1) If the amount of any compensation paid in bonds or in cash is deposited with the Collector of the district under sub-section (3) of section 58 and it appears to the Collector that the estate, tenure or holding or part thereof or any land in respect of which such amount has been awarded as compensation was held by any person who had no power to alienate the same, the Collector shall, where the amount is deposited in cash, order such amount to be invested in the purchase of such Government or other approved securities as the Collector thinks fit and shall direct the payment of the interest of such bonds or interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the interest in such estate, tenure, holding or part thereof or other land, as the case may be, if such interest had not vested in the Provincial Government under section 3 or section 44, and such bonds or securities shall remain so deposited until—

Money or bonds deposited in respect of estates, tenures, holdings or lands belonging to persons incompetent to alienate.

(a) they are made over to any person or persons becoming absolutely entitled thereto; or

(b) they are mature.

(2) If, when such bonds or securities are mature, there is no person or persons absolutely entitled thereto, the Collector shall direct the investment of the proceeds of such bonds or securities in the purchase of such Government or other approved securities as the Collector thinks fit; and the provisions of sub-section (1) shall apply to such investment and to the interest and other proceeds arising from such investment as they apply to the investment made under sub-section (1) of the amount of compensation deposited in cash with the Collector under sub-section (3) of section 58 and the interest and other proceeds arising out of such investment.



(Sections 60, 60A.)

(3) In all cases of moneys, bonds and other securities deposited to which this section applies, the Collector of the district shall order the costs of the following matters including therein all reasonable charges and expenses incidental thereto, to be paid by the Provincial Government, namely:—

- (a) the cost of such investments as aforesaid;
- (b) the cost of the orders for the payment of the interest or other proceeds of securities upon which such moneys are for the time being invested or of such bonds or other securities, and of all proceedings relating thereto except such as may be occasioned by litigation between adverse claimants.

(4) When any annuity is paid as compensation under sub-section (4) of section 58 to the Commissioner of Wakfs, the Commissioner of Wakfs shall pay the same to the *Mutawalli* or other person or persons who would for the time being have been entitled to the possession of the wakf property in respect of which such compensation has been awarded; and when any amount is paid as compensation under the said sub-section to a trustee appointed in this behalf by the Provincial Government, such trustee shall pay the same to the *Shebait* or other person or persons who would for the time being have been entitled to the possession of the trust property in respect of which such Compensation has been awarded; and all costs for the payment of every such annuity under this sub-section shall be paid by the Provincial Government:

Provided that the Commissioner of Wakfs or the Trustee may withhold the payment of the whole or any portion of such annuity until he is satisfied that the amount of annuity paid in the preceding year under sub-section (4) of this section has been spent for the purpose for which such amount was paid.

Dispute as to title or apportionment.

60. If any dispute arises as to the title of any person to receive any compensation payable under a Compensation Assessment-roll or as to the apportionment of any such compensation or any part thereof, the Revenue-officer may refer such dispute to the Special Judge appointed under sub-section (4) of section 48 to enquire into such disputes for decision.

Certain sections not applicable to future acquisition.

¹60A. The provisions of clause (c) of sub-section (4) of section 3, clause (7) of section 44 and sections 61 to 68 shall not apply in the case of acquisition of rent-receiving

¹Section 60A was added by the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956¹ (E. B. Ordinance III of 1956), section 14.

of 1951.]

(Sections 61—63.)

E. B. Ord. III of 1956, interests on or after the date of coming into force of the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956.

CHAPTER IX.

Provisions relating to arrears of revenue, rent and cesses.

61. For the purpose of clause (c) of sub-section (4) of section 3 or clause (7) of section 44, the expression "arrears" shall include the arrears in respect of which suits were pending on the date or day, as the case may be, referred to in the said clauses or in respect of which decrees, whether having the effect of a rent-decree or money-decree, were obtained before the said date or day and have not been satisfied and are not barred by limitation and shall also include the costs allowed by such decrees. Definition of arrears.

62. (1) All arrears of rent and all cesses and interest, which have vested in the Provincial Government under clause (c) of sub-section (4) of section 3 or under clause (7) of section 44, shall be payable to the Provincial Government and not to anybody else; and no payment made in contravention of this sub-section shall be valid. Payment and realisation of arrears.

(2) Subject to the provisions of sections 63, 64 and 65, all such arrears of rent and cesses and interest and all arrears of revenue and all cesses and interest referred to in clause (b) of sub-section (4) of section 3 or in clause (5) of section 44 ¹[may, without prejudice to any other mode of recovery,] be recoverable by the Revenue-officer under the provisions of the Bengal Public Demands Recovery Act, 1913. Ben. Act III of 1913.

63. If ²[any suit by a rent-receiver or rent-receivers] for the recovery of any arrears which have vested in the Provincial Government under clause (c) of sub-section (4) of section 3 or under clause (7) of section 44 or any proceeding in execution of a decree for the recovery of any such arrears is pending before any Civil Court on the date or day, as the case may be, referred to in the said clauses, such suit or proceeding, ³[where such rent-receiver was the sole landlord or such rent-receivers constituted the entire body of co-sharer landlords,] shall not be further proceeded with and shall be deemed to have been withdrawn, and any such decree may be executed as if it were a certificate filed under the Bengal Public Demands Recovery Act, 1913. Provision regarding pending suits and proceedings.

Ben. Act III of 1913.

¹These words and commas were substituted for the word "shall" by the East Bengal State Acquisition and Tenancy (Amendment) Act, 1952 (E. B. Act VI of 1952), section 18.

²These words were substituted for the words "any suit or proceedings" by section 19, *ibid*.

³These words and comma and the comma preceding them were inserted by section 19, *ibid*.

(Sections 64—67.)

Realisation of arrears in respect of lands held by tenants under Government.

¹64. (1) A certificate or decree for the recovery of any arrears of rent to the recovery of which the provisions of this Chapter apply shall not, in the case where the certificate or judgment-debtor is a tenant under the Provincial Government and where the arrears covered by such certificate or decree relate to any ²[holding or land] held by such tenant, be executed by arresting the certificate or judgment-debtor and detaining him in the Civil prison or by the attachment and sale of any movable or immovable property other than the ²[holding or land] to which such arrears relate.

— ³(2) If the holding or land to which such arrears relate has, before the execution of such certificate or decree, been sold in execution of any other decree or certificate, such arrears shall, notwithstanding anything contained in any other law for the time being in force, be a charge on such holding or land.

Sale of lands held by tenants under Government for arrears.

65. Where any certificate or decree is executed under this Chapter by the attachment and sale of any land which is held by the certificate or judgement-debtor as a tenant under the Provincial Government, such sale shall, ⁴[in areas where Part V applies,] be subject to the provisions of section 90.

Power to grant instalments and stay execution.

66. It shall be competent for the Certificate Officer in executing any certificate or decree under this Chapter to order the payment of the amount of such certificate or decree to be made by the certificate or judgment-debtor by instalments within a period not exceeding three years from the date of such order and to stay the execution of the certificate or decree for such period:

Provided that in default of payment of any instalment, the certificate or decree may be executed for the whole of the outstanding balance thereof.

Payment to outgoing rent-receivers.

67. (1) The Provincial Government shall pay to an outgoing rent-receiver to whom any arrears of rent and cesses and interest which have vested in the Provincial Government under clause (c) of sub-section (4) of section 3 or under clause (7) of section 44 were due immediately before the date or day, as the case may be, referred to in the said

¹The original section 64 was numbered as sub-section (1) of the same section by section 20 of the East Bengal State Acquisition and Tenancy (Amendment) Act, 1952 (E. B. Act VI of 1952).

²These words were substituted for the word "land" by section 20, *ibid.*

³Sub-section (2) was added by section 20, *ibid.*

⁴These words, figure and comma, and the comma preceding them were inserted by section 21, *ibid.*

(Sections 68—68B.)

clauses a sum equivalent to fifty *per centum* of ¹[such arrears excluding interest], as computed in the manner prescribed, by way of compensation within a period not exceeding four years from the said date or day in such manner and in such instalments as may be prescribed:

²Provided that before making such payment, the Provincial Government may, after giving the outgoing rent-receiver an opportunity of being heard, deduct from such sum any debts and dues payable to Government by such rent-receiver.

68. Notwithstanding anything contained in any other law for the time being in force, in computing the period of limitation for the recovery under this Chapter of any arrears which have vested in the Provincial Government under clause (c) of sub-section (4) of section 3 or under clause (7) of section 44, a period of ³[twenty four] months on and from the date or day, as the case may be, on which such arrears have so vested under the said clauses and, where a suit or proceeding referred to in section 63 filed for the recovery of any such arrears was pending before any Civil Court, also the period for which such suit or proceeding was so pending, shall be excluded.

Computation of the period of limitation.

CHAPTER IXA.

Special provisions relating to arrears of rent.

68A. The provisions of this Chapter shall apply in the cases of acquisition of rent-receiving interests on or after the date of coming into force of the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956.

Application of this Chapter.

E. B.
Ord. III
of 1956.

68B. (1) All requisitions for recovery of arrears of rent and applications for execution of decrees for arrears of rent made by a rent-receiver under the provisions of Chapter IXA for which this Chapter is being substituted and pending before any Certificate Officer on the date of coming into force of the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1957, shall, on such coming into force, stand transferred to the Civil Court

Transitory provisions in respect of pending cases before the Certificate Officers.

E. P.
Ord.
XXIV of
1957.

¹These words were substituted for the words "such arrears and interest" by section 22 of the East Bengal State Acquisition and Tenancy (Amendment) Act, 1952 (E. B. Act VI of 1952).

²This proviso was added, after substituting a colon for the full-stop at the end of section 67, by section 22, *ibid*.

³The word "twenty-four" was substituted for the word "twelve" by E. B. Act V of 1953, section 4.

⁴This Chapter (containing sections 68A, 68B, 68C, 68D and 68E) was substituted for the former Chapter IXA by the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1958 (E. P. Ord. No. XLIV of 1958), section 20.

(Sections 68C, 68D)

which has jurisdiction to entertain a suit for the recovery of the arrears of rent to which such requisition or application relates.

(2) On such transfer, the requisition or the application shall be deemed to be a plaint or application for execution of a decree, as the case may be, within the meaning of the Code of Civil Procedure, 1908, and the suit or application shall proceed in accordance with the provisions of law for the time being in force applicable for the recovery of such arrears or for the execution of such decree. V of 1908.

Provided that the Civil Court to which such requisition or application stands transferred shall, before proceeding with the suit or execution case, realise the difference between the court-fees already paid before the Certificate Officer on such requisition or application and the court-fees payable on such plaint or application in the Civil Court.

Arrears of rent and cesses due to a rent-receiver and decrees for such arrears.

68C. All arrears of rent and cesses together with interest thereon, which remained due to any rent-receiver in respect of any interest on the date of acquisition of such interest under the provisions of this Act and which have not been barred by limitation, and all sums due to him in respect of any decree for such arrears whether having the effect of a rent decree or money decree and whether obtained before or after the date of acquisition, the execution of which is not barred by limitation, shall continue to be recoverable by such rent-receiver amicably or through Civil Court from the persons liable to pay them.

Option to have arrears collected through Provincial Government on certain conditions.

68D. (1) Any such rent-receiver may apply to the Collector that he desires to have such arrears and interest, which are not barred by limitation, to be recovered by the Provincial Government in consideration of half the amount actually collected being paid to the Provincial Government.

(2) The Collector may refuse such application for reasons to be recorded in writing.

(3) If the Collector grants the application, it shall be competent for the Provincial Government to recover such arrears and interest as if they were public demands or in any other manner as if the Provincial Government were the rent-receiver.

¹Section 68D was substituted for the former section 68D by the East Bengal State Acquisition and Tenancy (Fourth Amendment) Ordinance, 1959 (E. P. Ord. No. LX of 1959), section 2.

(Section 70.)

execution of a decree or order, the time during which the institution of such suit or the execution of such decree or order is barred under sub-section (1) shall be excluded.

(3) The amount of any debt recoverable under any decree or order the execution of which is barred under sub-section (1) shall be deemed to be reduced, if any such debt has been scaled down under section 70, by the amount by which such debt has been so scaled down.

Scaling
down of
debts and
recovery
thereof.

70. (1) After the interests of a rent-receiver in a district, part of a district or local area have been acquired under this Act, the debts incurred by such rent-receiver before the 7th day of April, 1948, other than arrears of revenue, rent or cesses and other than debts and dues payable to the Provincial or Central Government or to a Co-operative Society ¹[and also other than loans advanced for financing tea industry], shall, notwithstanding anything contained in any other law for the time being in force, be scaled down in the following manner, if the rent-receiver has applied in the prescribed manner for scaling down his debts to the Revenue-officer authorised under sub-section (1) of section 71 within 3 months of the publication under section 42 of the Compensation Assessment-roll in respect to his interests or lands which have been acquired first under section 3 or section 44:—

- (a) in the case of a debt secured by a mortgage or charge on the interests of a rent-receiver which have been acquired under the provisions of this Act, the debt shall be scaled down proportionately to the reduction in the net income suffered by such a rent-receiver as a result of the acquisition of the interests concerned;
- (b) in the case of a debt secured by a mortgage or charge partly on the interests of a rent-receiver which have been acquired under this Act and partly on other properties which have not been so acquired under this Act, the debt shall be divided into two parts in the same ratio as the net annual income of the rent-receiver, as calculated in the manner prescribed, from the interests mortgaged or charged which have been acquired bears to the net annual income from the properties mortgaged or charged which have not been so acquired; and the part of the debt proportionate to the net annual income from the interests which have been acquired shall be scaled down proportionately to the reduction

¹These words were inserted by the East Bengal State Acquisition and Tenancy (Amendment) Act, 1956 (E. P. Act IV of 1956), section 2.

of 1951.]

(Sections 68E, 69.)

(4) The Collector shall, from time to time, in accordance with such rules as may be prescribed, send to the rent-receiver accounts of the amounts of arrears and interest aforementioned actually collected and shall pay to the rent-receiver half of the amount so collected and retain the other half for the Provincial Government. Such accounts shall be treated as conclusive and shall not be questioned in any manner.

(5) The Provincial Government shall not be liable if it fails to recover the whole or any portion of such arrears and interest.

58F(1) Notwithstanding anything contained in any other law for the time being in force, in computing the period of limitation for the recovery of any such arrears or for the execution of any decree in respect of such arrears, a period of ¹[forty-eight months] on and from the date of acquisition under this Act of the rent-receiving interests to which such arrears relate shall be excluded.

Computation of the period of limitation.

CHAPTER X.

Provisions relating to indebted rent-receivers.

9. (1) After the commencement of this Act, no Civil Court shall entertain any suit or execute any decree or order against any property of any rent-receiver, for the recovery of any debt which is liable to be scaled down under section 70, until all the interests of such rent-receiver which are liable to be acquired under this Act have been so acquired and compensation in respect of the acquisition of all such interests have been paid or deposited under section 58:

Bar to execution of certain decrees and orders for the recovery of certain debts of rent-receivers.

²Provided that if any rent-receiver fails to apply for the scaling down of his debts within the period mentioned in sub-section (1) of section 70, the provision of this sub-section shall cease to apply to his debts on the expiry of the said period.

(2) Notwithstanding anything contained in any other law for the time being in force, in calculating the period of limitation applicable to a suit or an application for the

¹The words within square brackets were substituted for the words "twenty-four months" by the East Bengal State Acquisition and Tenancy (Third Amendment) Ordinance, 1959 (E. P. Ord. No. LII of 1959), section 2. This substitution shall be deemed to have taken effect on the 14th day of April, 1958.

²This proviso was added, after substituting a colon for the full-stop at the end of sub-section (1) of section 69 by the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956 (E.B. Ordinance III of 1956), section 16.

(Section 70.)

of the net annual income suffered by the rent-receiver as a result of the acquisition of the interests concerned;

- (c) in the case of a debt not secured by any mortgage or charge on any interest or property, whether immovable or movable, of the rent-receiver, the debt shall be divided into two parts in the same ratio as the net annual income of the rent-receiver, calculated in the manner prescribed, from the interests, which have been acquired under this Act, bears to the net annual income of the rent-receiver from the properties which have not been so acquired and from other sources; and the part of the debt proportionate to the net annual income from the interests which have been acquired shall be scaled down proportionately to the reduction in the net annual income suffered by the rent-receiver as a result of the acquisition of the interests concerned:

Provided that no portion of the debt of any rent receiver shall be scaled down if the total of the debts apportioned under clauses (a), (b) and (c) on the interests or lands of the rent-receiver acquired under this Act be less than one-fourth of the total amount of the compensation money payable under this Act to such rent-receiver:

Provided further that the debts liable to be scaled down under this section shall not be scaled down to an amount less than one-fourth of the total amount of such compensation money.

¹(1a) Notwithstanding anything contained in sub-section (1), a rent-receiver, in respect of whose interest the Compensation Assessment-roll has been published under section 42 on or before the 15th day of March, 1955, may apply in the manner and to the officer laid down in that sub-section for scaling down his debts referred to therein within three months from the coming into force of the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956.

B. Ord.
I of
1956.

en. Act
of
1959.

²(1b) Notwithstanding anything contained in sub-section (1) or (1a), a rent-receiver whose properties were under the management of the Court of Wards under the Court of Wards Act, 1879 and in respect of whose

¹Sub-section (1a) was added by the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956 (E. B. Ordinance III of 1956), section 17.

²Sub-section (1b) was inserted by the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1959 (E. P. Ord. No. IV of 1959), section 4.

(Section 70.)

interest the Compensation Assessment-roll has been published under section 42 before the date of coming into force of the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1959, may apply in the manner and to the officer as laid down in sub-section (1) for scaling down his debts referred to therein within 3 months from the said date.

E.P. Ord.
IV of
1959.

(2) If any rent-receiver holds lands and other immovable properties, including those which will not be acquired under this Act, in different areas, then, notwithstanding anything contained in this section, action shall not be taken for the scaling down of the debts under this section until a Compensation Assessment-roll or Compensation Assessment-rolls in respect of all such areas has or have been prepared under ¹[this Act] and finally modified under section 54.

(3) The extent of reduction in the net income of a rent-receiver referred to in clauses (a), (b) and (c) of sub-section (1) shall be determined in accordance with the rules made in this behalf by the Provincial Government.

(4) The net annual income referred to in clauses (b) and (c) of sub-section (1) from the properties which have not been acquired under this Act and the income from other sources shall be calculated in accordance with the rules made in this behalf by the Provincial Government.

(5) Notwithstanding anything contained in any other law for the time being in force or in any contract,—

- (a) no creditor shall be entitled to recover in respect of any debt referred to in clause (a) of sub-section (1) any sum in excess of the debt as scaled down under that sub-section; and the liability of the rent-receiver for the balance of the debt shall be extinguished;
- (b) no creditor shall be entitled to recover from the rent-receiver, in respect of the part of any debt which has been apportioned under clauses (b) and (c) of sub-section (1) to the interests of the rent-receiver which have been acquired under this Act, any sum in excess of the amount to which such part of the debt has been scaled down under clauses (b) and (c) of sub-section (1); and the liability of the rent-receiver for the balance of such part of the debt shall be extinguished:

¹These words were substituted for the word and figure "Chapter V" by the East Bengal State Acquisition and Tenancy (Amendment) Act, 1952 (E. B. Act VI of 1952), section 23.

of 1951.]

(Section 71.)

Provided that the aggregate of all debts of a rent-receiver so reduced under clauses (a), (b) and (c) of sub-section (1) shall be recoverable only from the compensation money payable for the acquisition of all his interests under this Act, and shall be limited to and shall not exceed half of the total compensation money so payable;

Provided further that no portion of the debt of a rent-receiver apportioned under clause (b) or (c) of sub-section (1) on his properties which have not been acquired, and no portion of his debt secured entirely by a mortgage or charge on such properties, shall be recoverable from any compensation money payable to such rent-receiver under this Act; and

- (c) subject to the first proviso to clause (b), in the matter of recovery of debts from compensation money, the debts secured by the mortgage or charge on the interests of the rent-receiver in any land or other immovable property shall have preference in the sequence in which such mortgage or charge was created over the debts not so secured; and any amount available after payment of the debts so secured shall be rateably distributed for payment of the debts not so secured.

¹*Explanation.*—For the purpose of this section, the lands retained by a rent-receiver under the provisions of section 20 shall be deemed as not acquired under the Act.

71. (1) It shall be competent to the Provincial Government to authorise any Revenue-officer to scale down the debts of rent-receivers in any area under section 70 and to take other actions required or permitted by that section.

Provincial Government to authorise Revenue officer to take action under section 70.

(2)¹ A Revenue-officer, authorised under sub-section (1), shall publish in the prescribed manner a notice calling upon every creditor to submit to him within a prescribed period and in a prescribed form a statement showing all debts of the nature referred to in sub-section (1) of section 70 owed to him by the rent-receivers in such area whose interests have been acquired under section 3 or section 44 and who have applied under sub-section (1) of section 70 for scaling down their debts and such other particulars as may be prescribed.

(3) A creditor who has failed to submit under sub-section (2), within the period referred to therein, the statement of any debt of the nature referred to in sub-section (1)

¹This Explanation was added by the East Bengal State Acquisition and Tenancy (Amendment) Act, 1956 (E. P. Act IV of 1956), section 2.

(Section 72.)

of section 70, the liability of the debtor to pay such debt shall, notwithstanding anything contained in any other law for the time being in force, be deemed to be extinguished.

(4) After the expiry of the period referred to in sub-section (2), the Revenue-officer shall examine the statements of debts and other particulars submitted under that sub-section and shall, after giving the creditors and the debtors an opportunity of being heard and making such enquiries as he deems fit, make necessary modification in such statements.

(5) After a statement of debts has been examined and necessary modifications made therein under sub-section (4), the Revenue-officer shall proceed to scale down all debts shown in such statement as so modified in accordance with the provisions of section 70 and to take other actions in respect of such debts required or permitted by that section and in doing so and taking all other actions required or permitted by this Chapter the Revenue-officer shall follow such rules relating to procedure and other matters as may be made in this behalf by the Provincial Government.

(6) An appeal, if presented within a prescribed period, shall lie against an order passed by a Revenue-officer under this section to a Special Judge appointed under sub-section (4) of section 48; and the decision of the Special Judge and subject only to such decision an order of the Revenue-officer shall be final.

(7) A debt recoverable under this Chapter from the total compensation money payable to the debtor under a Compensation Assessment-roll or Compensation Assessment-rolls shall be so recoverable in the manner prescribed.

CHAPTER XI.

Miscellaneous.

Bar to jurisdiction of Civil Courts in certain matters.

72. Save as expressly provided in this Part, no suit shall be brought in any Civil Court in respect of the preparation, signing and publication of a Compensation Assessment-roll or any part thereof under Chapter V [or Chapter VA] or in respect of any entry in or omission from such roll or in respect of any order passed under Chapters V to X concerning any matter which is or has already been the subject of any application made or proceedings taken under those Chapters.

¹These words, figure and letter were inserted by the East Bengal State Acquisition and Tenancy (Amendment) Act, 1952 (E. B. Act VI of 1952), section 24.

(Sections 73—75A.)

73. A Revenue-officer, subject to any rules made under this Act, may at any time between the hours of sunrise and sunset enter upon any land with such officers or servants as he considers necessary, and make a survey or take measurements thereof or do any other acts which he considers to be necessary for carrying out any of his duties under this Act.

Power to enter, upon land, to make survey, etc.

74. (1) Subject to rules made under this Act, a Revenue-officer may, for the purposes of this Act, by notice require any person to make and deliver to him a statement or to produce records or documents in his possession or control relating to any estate, tenure, holding or land at a time or place specified in the notice.

Power to compel production of Statements and documents.

(2) Every person required to make or deliver a statement or to produce any record or document under this section shall be deemed legally bound to do so within the meaning of sections 175 and 176 of the Pakistan Penal Code.

Act XLV of 1860.

75. For the purposes of any enquiry under this Act, a Revenue-officer shall have power to summon and enforce the attendance of witnesses or of any person having an interest in any estate, tenure, holding or land and to compel the production of documents by the same means and so far as may be, in the same manner as is provided in the case of Civil Court under the Code of Civil Procedure, 1908.

Power to enforce attendance of witnesses and production of documents.

V of 1908.

175A. (1) On and from the date of publication of a notification under sub-section (3) of section 17 or under sub-section (1) of section 31, no person shall sublet any land in his *khas* possession in the area to which such notification relates.

Prohibition of subletting.

(2) Any subletting made in contravention of sub-section (1) shall be null and void ²[and the land so sublet shall be forfeited to the Provincial Government.]

(3) Any person may, at any time, apply to the Provincial Government for the acquisition of any of his

Section 75A was inserted by the East Bengal State Acquisition and Tenancy (Amendment) Act, 1954 (E. B. Act XII of 1954), section 13.

²These words were added by the East Bengal State Acquisition and Tenancy (Amendment) Act, 1956 (E. P. Act IV of 1956), section 3.

³Sub-section (3) was substituted for the former sub-section (3) by section 3, *ibid.* The former sub-section (3) read as follows:—

“(3) Nothing in sub-sections (1) and (2) shall apply to the subletting of any land purchased by a landlord in execution of a rent decree or surrender or abandoned under the provisions of the Bengal Tenancy Act, 1885, or the Sylhet Tenancy Act, 1936, when such land is sublet at a rent not more than the rent which was payable for such land by the outgoing tenant.”

(Sections 75B—76A.)

khas lands under sub-section (2) of section 3 on payment of compensation at the rate prescribed for such land in section 39.

Fees for application for enquiry.

¹75B. An application for fresh enquiry during the preparation or revision of record-of-rights or preparation of Compensation Assessment-rolls under this Act shall be accompanied by such fee as may be prescribed.

Settlement and use of land vested in the Provincial Government.

76. (1) Except as otherwise expressly provided in this Act, any land which vests in the Provincial Government under any of the provisions of this Act shall be absolutely at the disposal of the Provincial Government; and the Provincial Government shall be competent to make settlement of such land in accordance with such rules as it may make in this behalf or to use or otherwise deal with such land in such manner as it thinks fit:

Provided that no land shall be settled with a person unless he is a person to whom transfer of land can be made under section 90:

Provided further that in making settlement of any cultivable land preference shall be given to an applicant for settlement who cultivates land by himself or by the members of his family and holds a quantity of cultivable land which, added to the quantity of cultivable land, if any, held by the other members of his family, is less than three acres.

(2) No Civil Court shall entertain any application or suit concerning any matter relating to the settlement, by any officer of the Provincial Government, of any land under sub-section (1).

Explanation.—For the purposes of this section, the definition of “family” as given in the explanation under section 20 shall apply *mutatis mutandis*.

Creation of separate estate and apportionment of revenue.

²76A. Notwithstanding anything contained in any other law for the time being in force or in any contract,^{ny}

(1) when the interests of a rent-receiver or rent-receivers in a share or part of any estate have been acquired by the Provincial Government under sub-section (1) of section 3 or clause (1) of section 44, nothing in the Bengal Land Revenue Sales Act, 1859 or in Chapter V of the Assam Land and Revenue Regulation, 1886, shall apply

Ben.
XI
1859
Assa
Regi
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¹Section 75B was added by the East Bengal State Acquisition and Tenancy (Amendment) Ordinance 1956 (E. B. Ordinance III of 1956), section 18.

²Section 76A was added by the E. B. State Acquisition and Tenancy Amendment) Act, 1954 (E. B. Act XII of 1954), section 14.

(Section 76A.)

to such share or part, and the remaining share or part of such estate shall be deemed to constitute a separate estate for the purpose of the aforesaid Act or Regulation, as the case may be; and

- (2) the land-revenue and cesses payable for the parent estate shall be apportioned, between the acquired share or part and the separate estate constituted under clause (1), according to the following principles, namely:—
 - (a) when an acquired share consists of a separate account or separate accounts, the land-revenue and cesses of such separate estate shall be equivalent to the difference between the land-revenue and cesses payable for the parent estate and the land-revenue and cesses fixed for the acquired separate account or accounts;
 - (b) when an acquired share does not consist of a separate account, the land-revenue and cesses of such separate estate shall bear the same proportion to the land-revenue and cesses of the parent estate as the share comprised in the separate estate bears to the parent estate;
 - (c) when an acquired share consists of a specific portion of the land of an estate having no separate account or when a part of an estate is acquired, the land-revenue and cesses of such separate estate shall bear the same proportion to the land-revenue and cesses of the parent estate as the area of the land comprised in the separate estate bears to the area of the entire land comprised in the parent estate;
- ¹(3) When the interests in a portion of a tenure, holding or other tenancy have been acquired under this Act and such portion consists of a definite share, the rent of such tenure, holding or tenancy shall be apportioned between the acquired and unacquired portions according to such share, but when it does not consist of a definite share, the Revenue-officer may apportion the rent of such tenure, holding or tenancy

¹Clause (3) was added, after substituting a semi-colon for the full-stop at the end of clause (2) of section 76A, by the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956 (E. B. Ordinance III of 1956), section 19.

(Sections 63—78.)

between the acquired and unacquired portions on the basis of the area or value as may appear to him fair and equitable.

Recovery of advance rent or bid money realised by outgoing rent-receivers.

176B. When the Revenue-officer is satisfied that a rent-receiver, whose interests have been acquired under this Act, has realised any amount on account of the rent or bid money or consideration money in respect of any such interests for any period subsequent to such acquisition, he may recover such amount or any part thereof from such rent-receiver as a public demand.

Protection of action taken under this Act.

77. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

(2) Save as otherwise expressly provided under this Act, no suit or other legal proceeding shall lie against the Provincial Government for any damage caused or likely to be caused or for any injury suffered or likely to be suffered by virtue of any provisions of this Act or by anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

Power to make rules.

78. (1) The Provincial Government may, after previous publication, make rules for carrying out the purposes of Parts II, III and IV of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the forms of the notifications referred to in sub-section (3) of section 3 and the particulars which such notifications shall contain;
- (b) the manner of service of the notice and the form of the return referred to in sub-section (1) of section 4;
- (c) the time and manner of receiving an *ad interim* payment referred to in sub-sections (1) and (2) of section 6;
- (d) the determination of the amounts of deductions referred to in sub-section (4) of section 6;
- (e) the manner of and the period for filing appeals referred to in section 7;

¹Section 76B was added by section 20 of the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956 (E. B. Ordinance III of 1956).

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- (f) the manner of recovery of fines referred to in section 8;
- (g) the authority referred to in sub-section (1) of section 9;
- (h) the form of the applications referred to in section 15, the particulars which such applications shall contain and the amounts of process fees which shall accompany such applications;
- (i) the manner of preparing or revising a record-of-rights under section 17 and the procedure to be followed and the powers to be exercised by Revenue-officers in preparing or revising such record-of-rights;
- (j) the particulars to be recorded in the record-of-rights to be prepared or revised under section 17;
- (k) the manner and period of publication of the draft record-of-rights under sub-section (1) of section 19;
- (l) the Revenue Authority to whom, the manner in which and the period within which an appeal under sub-section (2) of section 19 may be preferred;
- (m) the disposal of objections and appeals under section 19;
- (n) the manner of publication of the record-of-rights under sub-section (3) of section 19;
- (o) the period for exercise of choice under sub-section (3) of section 20 and the manner of allotment of lands under the said sub-section when no choice is exercised;
- (p) the manner of selection of lands under clause (ii) of sub-section (5) of section 20 which shall come within the purview of sub-clause (c) of clause (i) of the said sub-section;
- (q) the manner of and the procedure for revising the particulars referred to in sub-section (2) of section 31 and the powers to be exercised by Revenue-officer for the purpose;
- (r) the form of a Compensation Assessment-roll under section 33, the manner of preparing it and the particulars to be specified therein;

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- (s) the manner of calculation of the sums and determination of the expenditure and charges referred to in sub-section (2) of sections 35;
- (t) the procedure to be followed in the apportionment of the compensation between the holder of a temporary tenure or tenancy and his immediately superior landlord under clause (2) of section 37;
- (u) the manner of and the procedure for the calculation of compensation and preparation of Compensation Assessment-rolls in cases referred to in section 38;
- (v) the manner of determination of the annual letting value of lands referred to in items (e) and (f) and the manner of determination of the actual cost of construction and the amount on account of depreciation referred to in item (f) of the table in sub-section (1) of section 39;
- (w) the manner of determination of the normal annual produce of land under clause (a) of sub-section (3) of section 39;
- (x) the manner of determination of the cost of cultivation referred to in sub-clause (i) of clause (b) of sub-section (3) of section 39;
- (y) the manner of determination of net annual profit from fisheries referred to in sub-section (4) of section 39;
- (z) the procedure to be followed in making the apportionment of compensation referred to in sub-section (5) of section 39;
- (za) the manner and period of publication of a draft Compensation Assessment-roll under sub-section (1) of section 40 and disposal of objections under that sub-section;
- (zb) the Revenue Authority to whom appeals under section 41 are to be preferred and disposal of appeals under that section;
- (zc) the manner of publication of a Compensation Assessment-roll under section 42;
- (zd) the manner of publication of a proclamation under section 45;
- (ze) the assignment under sub-section (1) of section 46 of numbers to be borne on the revenue-roll of a

(Section 78.)

district in respect of areas to which a record-of-rights referred to in that sub-section relates and the manner in which copies of record-of-rights shall be distributed under sub-section (2) of that section;

- (zf) the powers and duties of the Commissioner of State Purchase referred to in sub-section (2) of section 48;
- (zg) the powers and duties of the Director of Land Records and Surveys referred to in sub-section (3) of section 48;
- (zh) the form of application referred to in sub-section (1) of section 52 or in section 53;
- (zi) the manner of ascertaining excess payment under sub-section (2) of section 57 and the superior Revenue Authority referred to in the second proviso to that sub-section;
- (zj) the manner of computing the sum referred to in section 67 and the manner and instalments for its payment to an outgoing rent-receiver under the said section;
- (zk) the manner of application under sub-section (1) of section 70;
- (zl) the manner of and the procedure for the determination of the extent of reduction in the net income referred to in sub-section (3) of section 70;
- (zm) the manner of and the procedure for the calculation of the net annual income and the income referred to in sub-section (4) of section 70;
- (zn) the manner of publication of a notice under sub-section (2) of section 71 and the form in which and the period within which a statement referred to in that sub-section is to be submitted and the particulars which such statement shall contain;
- (zo) the rules referred to in sub-section (5) of section 71;
- (zp) the period for presenting an appeal under sub-section (6) of section 71;
- (zq) the manner of recovery of debts under sub-section (7) of section 71;
- (zr) the procedure and conduct of the Revenue-officers and of officers and servants referred to in section 73;

(Sections 79—81.)

- (zs) the exercise of powers under sub-section (1) of section 74 to enforce the making and delivery of statements and production of records or documents;
- (zt) the rules for settlement of lands referred to in section 76.

PART V.

CHAPTER XII.

Application of this part and class of agricultural tenants.

Commence-
ment of this
Part.

¹[79. This Part shall come into force in such areas and on such dates as the Provincial Government may, by notification, direct.]

Repeal.

²[80. On and from the date of coming into force of this Part in any area, the enactments specified in the Schedule shall be repealed in that area to the extent mentioned in the fourth column of the Schedule.]

Class of agri-
cultural ten-
ants and re-
gulation of
their rights
and liabili-
ties.

81. ³[(1) On and from the date of coming into force of this Part in any area, there shall, within that area, be only one class of tenants of agricultural land, namely, *rai-yats*, and the rights and liabilities of every such *rai-yat* shall be regulated by the provisions of this Part:]

¹This section was substituted for the original section 79 by East Bengal Act VI of 1952, section 25. The original section 79 read as follows:—

“79. This Part shall not apply to any area unless a notification has been published under sub-section (2) of section 43 declaring that a Compensation Assessment-roll in respect of such area has been finally published, and shall come into force in such area on and from the first day of the agricultural year next following the date of publication of such notification in the *Official Gazette*.”

²This section was substituted for the original section 80 by E.B. Act VI of 1952, section 26. The said original section 80 read as follows:—

“80. On and from the first day of the agricultural year next following the date of publication of a notification in the *Official Gazette* under sub-section (2) of section 43 declaring that a Compensation Assessment-roll has been finally published, the enactments specified in the Schedule shall, in the area to which such roll relates, be repealed to the extent mentioned in the fourth column thereof.”

³This sub-section was substituted for the original sub-section (1) of section 81 by section 27, *ibid*. The said original sub-section (1) read as follows:—

“(1) On and from the first day of the agricultural year immediately following the publication of a notification in the *Official Gazette* under sub-section (2) of section 43 declaring that a Compensation Assessment-roll has been finally published, there shall, within the area to which such roll relates, be only one class of tenants of agricultural land, namely, *rai-yats*, and the rights and liabilities of every such *rai-yat* shall be regulated by the provisions of this Part.”

(Sections 82, 83.)

¹[Provided that when the Provincial Government lease out any land for any particular period, the rights and liabilities of such a lessee shall be governed by such terms and conditions as may be set forth in the lease.]

(2) The provisions of this Part except those in Chapters XIII, XVI, XVII, XVIII and XIX shall not apply to tenants of land in so far as they are tenants of non-agricultural lands.

(3) The provisions of Chapters XIII, XVI, XVII, XVIII and XIX shall apply to the tenants of non-agricultural lands so far as such provisions are applicable to such tenants.

82. In this Part,—

Interpreta-
tion.

- (1) "*bona fide cultivator*" means a person who cultivates lands by himself or by members of his family or by, or with the aid of, servants or labourers or with the aid of partners or *bargadars*, and also includes an agricultural labourer;
- (2) "*raiyat*" means a person who, by virtue of section 44 or otherwise, has acquired a right to hold land directly under the Provincial Government mainly for the purpose of cultivating it by himself or by members of his family or by, or with the aid of, servants or labourers or with the aid of partners or *bargadars*, and includes also the successors-in-interest of persons who have acquired such a right ; and
- (3) the family of a *raiyat* includes all persons living in the same mess with him and dependent upon him but does not include any servant of labourer.

Explanation.—Where a tenant of land has the right to bring it under cultivation, he shall be deemed to have acquired a right to hold it for the purpose of cultivation, notwithstanding that he uses it for the purpose of gathering the produce of it or of grazing cattle on it.

CHAPTER XIII.

Incidents of holdings of raiyats, and transfer, purchase and acquisition of lands.

83. A *raiyat* shall have the right to occupy and use the land comprised in his holding in any manner he likes.

Rights of rai-
yat in res-
pect of use
of land.

¹The proviso was added by the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1959 (E.P. Ord. No. IV of 1959), section 5.

Devolution
of holding
on the death
of a *raiyat*.

84. If a *raiyat* dies intestate his holding shall subject to, and in a manner not inconsistent with, the provisions of this Act, descend in the same manner as his other immovable property:

Provided that in any case in which under the law of inheritance, to which the *raiyat* is subject, his other property goes to the State, his interest in the holding shall be extinguished.

Ground for
eviction of
raiyats.

85. A *raiyat* shall not be ejected from his holding or from any part of his holding, except in execution of a decree for ejection from the whole holding or from any part of the holding, as the case may be, passed by a Civil Court, on the ground that he has done any act in contravention of the provisions of this Act with respect to the whole holding or the part concerned.

Abatement
of rent on
account of
diluvion and
re-entry into
lands which
re-appear.

86. (1) If the lands of a holding or a portion of such lands are lost by diluvion, the rent of the holding shall, on application made by the tenant in the prescribed form to the Revenue-officer, be abated by such amount as may be considered by the Revenue-officer to be fair and equitable in accordance with the rules made in his behalf by the Provincial Government.

(2) Notwithstanding anything contained in any other law for the time being in force, the right, title and interest of the tenant or his successors-in-interest shall subsist in such lands or portion thereof during the period of loss by diluvion, not exceeding twenty years, whether partly before and partly after or wholly after the commencement of this Part; and the tenant or his successors-in-interest shall have the right to immediate re-possession on the re-appearance of such lands or portion thereof within twenty years of their loss by diluvion, and be liable to pay such fair and equitable rent in respect thereof as may be settled by the Revenue-officer:

Provided that when the lands or portion thereof which have so re-appeared added to the total area of land already in the possession of such tenant or his successors-in-interest exceed the area of land which the tenant was allowed to retain in his possession under section 20, or the limit laid down in section 90, whichever be greater, such tenant or his successors-in-interest shall not have the right to re-possession of such excess area of land; and such excess area shall vest in and be at the disposal of the Provincial Government:

Provided further that allotment of lands, of which such tenant or his successors-in-interest are entitled to re-possession under the above proviso, shall be made according to the choice of such tenant or his successors-in-interest.

(Sections 87—89.)

87. (1) Notwithstanding anything contained in any other law for the time being in force, when any land has been gained by gradual acccession, whether from the recess of a river or of the sea, it shall, subject to the provisions of sub-section (2), be considered an increment to the holding of the *raiya*t to whose land it is thus annexed; and such *raiya*t shall be entitled to hold such land subject to the payment of such fair and equitable rent as may be determined for such land by the Revenue-officer.

Rights in land gained by gradual acccession from recess of river or sea.

(2) If, when the whole or any part of the land which has been gained by such gradual acccession is added to the total area of land including non-agricultural land, if any, held at the time by the *raiya*t to whose land it is so annexed, the aggregate of the areas of land held by him exceeds the limit laid down in section 90, then such excess shall not be considered as an increment to the holding of such *raiya*t but shall be at the disposal of the Provincial Government:

Provided that the limitation in respect of the area of the land in this sub-section shall not apply to a *raiya*t who has been certified in the prescribed manner by the prescribed Revenue Authority to be a person who has undertaken large scale farming on a co-operative basis or otherwise by the use of power-driven mechanical appliances or to any land which is held for the purpose of cultivation and manufacture of tea or to any land held by a company for the cultivation of sugarcane for the purpose of manufacture of sugar by that company.

(3) In dealing with any such excess at the disposal of the Provincial Government, the Revenue-officer shall decide, in such manner as he may deem fair and equitable, after giving any parties interested an opportunity of being heard, which portion, being equal to such excess, of the land so annexed shall so be at the disposal of the Provincial Government and shall serve a notice on the *raiya*t in the prescribed form and manner stating the boundaries of the land so decided as being at the disposal of the Provincial Government; and thereupon such land shall vest in the Provincial Government absolutely.

88. The holding of a *raiya*t or a share or portion thereof shall, subject to the provisions of this Act, be capable of being transferred by him in the same manner and to the same extent as his other immovable property.

Transferability of holding of *rayats*.

89. (1) Every such transfer shall be made by registered instrument, except in the case of a bequest or a sale in execution of a decree or of a certificate signed under

Manner of transfer.

(Section 39.)

the Bengal Public Demands Recovery Act, 1913; and a Registering Officer shall not accept for registration any such instrument unless the sale price, or where there is no sale price, the value of the holding or portion or share thereof transferred is stated therein and unless it is accompanied by—

Ben. Act
III of
1913.

- (a) a notice giving the particulars of the transfer in the prescribed form together with the process fee prescribed for the transmission thereof to the Revenue-officer; and
- (b) such notices and process fees as may be required by sub-section (4).

(2) In the case of a bequest of such a holding or portion or share thereof, no Court shall grant probate or letters of administration until the applicant files a notice similar to, and deposits a process fee of the same amount as, that referred to in clause (a) of sub-section (1).

(3) No Court or Revenue Authority shall confirm the sale of such a holding or portion or share thereof put to sale in execution of a decree or a certificate signed under the Bengal Public Demands Recovery Act, 1913, and no Court shall make a decree or order absolute for foreclosure of a mortgage of such a holding or portion or share thereof, until the purchaser or the mortgagee, as the case may be, files a notice or notices similar to, and deposits process fees of the same amount as, that referred to in sub-section (1).

Ben. Act
III of
1913.

(4) If the transfer of a portion or share of such a holding be one to which the provisions of section 96 apply, there shall be filed notices giving particulars of the transfer in the prescribed form together with process fees prescribed for the service thereof on all the co-sharer tenants of the said holding who are not parties to the transfer and for affixing a copy thereof in the office of the Registering Officer or the Court house or the Office of the Revenue Authority, as the case may be.

(5) The Court, Revenue Authority or Registering Officer, as the case may be, shall transmit the notice referred to in clause (a) of sub-section (1) to the Revenue-officer and shall serve the notices on the co-sharer tenants referred to in sub-section (4) by registered post and shall cause a copy of the notice to be affixed in the Court house or in the Office of the Revenue Authority or of the Registering Officer, as the case may be:

Provided that the service of such a notice shall not operate as an admission of the amount of rent or the area of such holding by the Provincial Government or by any co-sharer tenant of such holding on whom such notice is

of 1951.]

(Section 90.)

served or be deemed to constitute an express consent of the Provincial Government or such co-sharer tenant to the division of the holding or to the distribution of the rent payable in respect thereof:

Provided further that if a transfer is subsequently set aside or modified by a competent authority in any suit, appeal or other proceedings to which the Revenue-officer was not a party, the authority before whom the appropriate suit or proceedings was first initiated shall transmit a copy of such order to the Revenue-officer.

(6) In this section—

- (a) “transferee”, “purchaser” and “mortgagee” include their successors-in-interest, and
- (b) “transfer” does not include partition or, until a decree or order absolute for foreclosure is made, simple or usufructuary mortgage or mortgage by conditional sale.

90. (1) Notwithstanding anything contained in any other law for the time being in force, no person shall, after the commencement of this Part, be entitled to purchase or otherwise acquire, except in accordance with the provisions of this Part, any quantity of land which added to the total quantity of land already held by him for himself and his family exceeds one hundred standard *bighas*. Limitation of transfer of holding.

(2) Notwithstanding anything contained in any other law for the time being in force, the holding of a *raiya* or a share or portion thereof shall not be transferred whether by sale or gift or bequest or otherwise or by sale in execution of a decree or of a certificate signed under the Bengal Public Demands Recovery Act, 1913, except to a *bona fide* cultivator, and any other tenancy or a share or portion thereof shall not be transferred by any such means except to a person, who holds for the time being lands for himself and his family of a total area of less than one hundred standard *bighas*; and no such transfer shall be valid if, on such transfer, the area of the land so transferred added to the area of land held by the transferee at the time of such transfer exceeds one hundred standard *bighas*:

Ben. Act
III of
1913.

Provided that nothing in sub-sections (1) and (2) shall render a transfer to any person invalid in the case where the total area of the land held by such person on such transfer exceeds one hundred standard *bighas*, if such person has been certified by the prescribed Revenue Authority to be a person who has undertaken large-scale farming on a co-operative basis or otherwise by the use of power-driven

(Section 90.)

mechanical appliances and such transfer is limited to the extent specified in the certificate granted by such Revenue Authority:

Provided further that nothing in sub-section (1) or (2) shall apply to the transfer of lands to a person who is *bona fide* carrying on the cultivation of tea or to a co-operative society or company which is *bona fide* carrying on the cultivation of sugarcane for the purpose of manufacture of sugar by that society or company or to any other company the object of which is to develop industries by the manufacture of commodities.

(3) Notwithstanding anything contained in sub-section (1) or (2), a person who is not a *bona fide* cultivator, may, with the previous written permission of the prescribed Revenue Authority, purchase or otherwise acquire such quantity of land as may be specified in such permission, for occupation and use for commercial or industrial purposes or for charitable or religious purposes.

(4) Notwithstanding anything contained in sub-section (1) or (2), a person who is not a *bona fide* cultivator, may, with the previous written permission of the prescribed Revenue Authority, purchase or otherwise acquire, such quantity of land as may be specified in the permission, for the purpose of constructing a dwelling house for himself and his family or for the purpose of cultivating such land by himself or by the members of his family or by, or with the aid of, servants or labourers or with the aid of partners or *bargadars*; and such person shall hold the land so acquired as a tenant under the Provincial Government:

Provided that no such person shall be allowed to hold any area of land in excess of the limit imposed in sub-section (1):

Provided further that, in case of land acquired by such person for the purpose of constructing a dwelling house for himself or his family, if no dwelling house is constructed on the land within five years from the date of such acquisition, the right of such person in such land shall be extinguished and the land shall vest in the Provincial Government.

(5) Any transfer of a holding or tenancy or of a share or portion thereof made in contravention of the provisions of this section shall be void, and the lands comprised in the holding or tenancy or share or portion thereof so transferred shall vest absolutely in the Provincial Government free from all encumbrances.

(Sections 91, 92.)

91. Notwithstanding anything contained in any other law for the time being in force, when any area of land which has devolved on a person by inheritance added to the total area of land already in his possession exceeds the limit laid down in section 90, it shall be lawful for the Provincial Government to acquire an area of such land, equivalent to such excess, to be selected according to the choice of such person, on payment of compensation at the rates laid down in sub-section (1) of section 39.

Power of acquiring excess land devolved by inheritance.

92. (1) The interest of a *raiyyat* in a holding shall be extinguished—

Extinguishment of interest of *raiyyats* in certain cases.

- (a) when he dies intestate leaving no heir entitled to inherit under the law of inheritance to which he is subject;
- (b) when he surrenders his holding at the end of any agricultural year by giving notice in the prescribed form and in the prescribed manner and within the prescribed period to the Revenue-officer;
- (c) when he voluntarily abandons his residence without making any arrangement for payment of the rent as it falls due and ceases to cultivate his holding either by himself or by members of his family or by, or with the aid of, servants or labourers or with the aid of partners or *bargadars* for a period of three successive years; or—
- (d) when such interest has devolved by inheritance, under the law of inheritance to which such *raiyyat* is subject, on a person who is not a *bona fide* cultivator and such person has not cultivated the land comprised in the holding either by himself or by members of his family or by, or with the aid of, servants or labourers or with the aid of partners or *bargadars* during the period of five years from the date on which such interest has so devolved on him and there is no sufficient cause why he has not so cultivated the land.

(2) When the interest of a *raiyyat* in a holding is extinguished under sub-section (1), the Revenue-officer may enter on the holding; and the holding shall, with effect from the date on which the Revenue-officer so enters on it, vest absolutely in the Provincial Government free from all encumbrances except the encumbrances on the holding which is extinguished under clause (a) of the said sub-section, but the persons whose interests in the holdings are extinguished under clauses (b), (c) and (d) of that sub-section shall continue to be personally liable for the money secured by the encumbrances on such holdings.

(Sections 93, 94.)

(3) Before entering on a holding under sub-section (2), the Revenue-officer shall cause a notice to be published in the prescribed manner declaring his intention to so enter on the holding and specifying the reasons thereof and also inviting objections from all persons interested in the holding and shall consider any objections that may be submitted to him within the period specified in that behalf in the notice and shall record a decision.

(4) Any person aggrieved by an order passed by the Revenue-officer under sub-section (3) on any objection shown against the extinguishment of the interest of any *raiyat* in his holding under clause (d) of sub-section (1) may, instead of filing an appeal under section 147, institute a suit in the Civil Court against such order. Notwithstanding anything contained in any other law for the time being in force, such suit shall be filed within ninety days from the date of the order of the Revenue-officer under sub-section (3).

(5) All arrears of rent in respect of a holding remaining due from a *raiyat* whose interest in such holding has been extinguished under sub-section (1) shall be deemed to be irrecoverable.

Restrictions
on sublet-
ting.

93. (1) No *raiyat* shall sublet the whole or any part of his holding on any terms or conditions whatsoever.

(2) If any holding or any part of holding is sublet in contravention of the provisions of this section, the interest of the *raiyat* in the holding or in that part of the holding shall be extinguished, and the holding or the part of the holding, as the case may be, shall vest in the Provincial Government from the date of such subletting free from all encumbrances.

Transfer of
encumbran-
ces in certain
cases.

94. Notwithstanding anything contained in any other law for the time being in force, the encumbrances referred to in sub-section (5) of section 90 or sub-section (2) of section 93 shall, with effect from the date of transfer or sub-lease of the lands concerned, be deemed to be transferred and attached to such other lands of the transferor or the lessor as may be selected by the Revenue-officer in accordance with the rules prescribed, and thereupon the encumbrancer shall continue to have the same rights in or against those lands as he had in the original lands before the transfer or sub-lease thereof. The transferor or the lessor, as the case may be, shall also be personally liable for the money secured by such encumbrances.

(Sections 95, 96.)

95. (1) Notwithstanding anything contained in any other law for the time being in force, a *raiyat* shall not enter into any form of usufructuary mortgage other than a complete usufructuary mortgage in respect of his holding or of a portion or share thereof, and every such complete usufructuary mortgage shall be subject to the same limitations as are imposed by section 90 on a transfer of the holding of a *raiyat* or of any share or portion thereof; and the period for which such complete usufructuary mortgage may be entered into by any *raiyat* shall not exceed, by any agreement express or implied, fifteen years:

Limitation
on mortgage
of *raiyat*
holdings.

Provided that any such usufructuary mortgage may be redeemed at any time before the expiry of the said period, on payment of an amount which shall bear the same proportion to the total consideration money received by the mortgagor, as the unexpired period bears to the total period for which the mortgage had been entered into.

Act XVI
of 1908.

(2) Every such complete usufructuary mortgage shall be registered under the Registration Act, 1908.

(3) If any usufructuary mortgage entered into by a *raiyat* does not fulfil any of the conditions specified in sub-section (1) or is not registered as required under sub-section (2), it shall be void.

96. (1) If a portion or share of a holding of a *raiyat* is transferred, one or more co-sharer tenants of the holding may, within four months of the service of the notice given under section 89, or, if no notice has been served under section 89, within four months of the date of the knowledge of the transfer, apply to the Court for the said portion or share to be transferred to himself or themselves; and if a holding or a portion or a share of a holding is transferred, the tenant or tenants holding land contiguous to the land transferred may, within 4 months of the date of the knowledge of such transfer, apply to the Court for the holding or portion or share to be transferred to himself or themselves:

Right of
pre-emption.

Provided that no co-sharer tenant or tenant holding land contiguous to the land transferred shall have the right to purchase under this section unless he is a person to whom transfer of the holding or the portion or share thereof, as the case may be, can be made under section 90.

(2) In an application made under sub-section (1) by a co-sharer tenant or co-sharer tenants, all other co-sharer tenants of the holding and the transferee shall be made parties; and in such an application made by a tenant holding land contiguous to the land transferred, all the co-sharer

(Section 96.)

tenants of the holding and all the tenants holding lands contiguous to the land transferred and the transferee shall be made parties.

(3) (a) An application made under sub-section (1) shall be dismissed unless the applicant or applicants, at the time of making it, deposit in the Court the amount of the consideration money or the value of the transferred holding or portion or share of the holding as stated in the notice under section 89 or in the deed of transfer, as the case may be, together with compensation at the rate of ten *per centum* of such amount.

(b) On receipt of such application accompanied by such deposit, the Court shall give notice to the transferee and to the other persons made parties thereto under sub-section (2) to appear within such period as it may fix and shall require such persons to state the consideration money actually paid for the transfer and shall also require the transferee to state what other sums he has paid in respect of rent since the date of transfer and what expenses he has incurred in annulling encumbrances on, or for making any improvement in respect of, the holding, portion or share transferred, and the Court shall then, after giving all the parties an opportunity of being heard and after holding an enquiry as to the actual amounts of the consideration money and rent paid and the expenses incurred by the transferee in annulling encumbrances on, or for the improvement of, the land transferred, direct the applicant or applicants to deposit a further sum, if necessary, within such period as it thinks reasonable:

Provided that the transferee shall, in no case, be entitled to claim consideration money in excess of the amount mentioned in the deed of transfer.

(4) When an application has been made under sub-section (1), any of the remaining co-sharer tenants including the transferee, if one of them, and the tenants holding lands contiguous to the land transferred may, within the period referred to in sub-section (1) or within two months of the date of the service of the notice of the application under clause (b) of sub-section (3), whichever be earlier, apply to join in the said application; any co-sharer tenant or tenant holding land contiguous to the land transferred, who has not applied either under sub-section (1) or under this sub-section, shall not have any further right to purchase under this section.

(5) (a) If (i) a co-sharer tenant whose interest has accrued by inheritance and (ii) a co-sharer tenant whose interest has accrued by purchase and (iii) a tenant holding

of 1951.]

(Section 96.)

land contiguous to the land transferred apply under this section and comply with the provisions herein contained, the applicant or applicants shall have the prior right to purchase under this section in the order in which they have been mentioned above.

(b) If more than one tenant holding land contiguous to the land transferred apply under this section, the Court shall determine the order of priority as among such tenants having regard to—

- (i) the total quantity of land in possession of each of the tenants applying;
- (ii) whether the contiguous land of the tenant is homestead land or any other class of land;
- (iii) extent of contiguity;
- (iv) to what extent it is necessary for the applicant to have possession of the contiguous land; and
- (v) the right of easement, if any, of the applicants.

(6) (a) On the expiry of the period within which an application may be made under sub-section (4), the Court shall determine, in accordance with the provisions of this section, which of the applications filed under sub-section (1) or sub-section (4) shall be allowed.

(b) If the Court finds that an order allowing the applications made under this section is to be made in favour of more than one applicant, the Court shall determine the amount to be paid by each of such applicants and, after apportioning the amount, shall order the applicant or applicants who have joined in the original application under sub-section (4) to deposit the amounts payable by him or them within such period as it thinks reasonable; and if the deposit is not made by any such applicant within such period, his application shall be dismissed.

(7) (a) On the expiry of the period within which a deposit, if any, is to be made under clause (b) of sub-section (6), the Court shall pass orders allowing the application or applications made by the applicant or applicants who are entitled to purchase under and have complied with the provisions of this section and, when such orders are passed in favour of more than one applicant, shall apportion the holding or the portion or share of the holding among them in such manner as it deems equitable; and the applicant or applicants under sub-section (1), if found to be entitled to a refund of any money, shall get the refund from the amount deposited by the applicant or applicants under clause (b) of sub-section (6).

(Section 96.)

(b) The Court shall, at the same time, pass an order directing that the transferee be paid out of the deposits made under sub-section (3) the amount of consideration money paid by him for the transfer together with compensation at the rate of ten *per centum* of such amount, the amount, if any, paid by him on account of rent of the holding, portion or share transferred since the date of transfer and the amount of expenses, if any, incurred by him in annulling encumbrances on, or for making any improvement in respect of, such holding, portion or share.

(8) No apportionment order under sub-section (7) shall operate as division of the holding.

(9) From the date of the passing of the order under sub-section (7)—

- (a) the right, title and interest in the holding or portion or share thereof accruing to the transferee from the transfer shall, subject to any orders passed under the said sub-section, be deemed to have vested free from all encumbrances which have been created after the date of transfer in the co-sharer tenants or in the tenants holding lands contiguous to the land transferred, as the case may be, whose applications to purchase have been allowed under sub-section (7);
- (b) the liability of the transferee for the rent of the holding or portion or share from the date of the transfer shall cease; and the co-sharer tenants or the tenants holding lands contiguous to the land transferred whose applications to purchase have been so allowed shall be liable for any such rent due from the transferee; and
- (c) the Court on further applications of such applicant or applicants may place him or them, as the case may be, in possession of the property vested in him or them.

(10) Nothing in this section shall apply to—

- (a) a transfer to a co-sharer in the tenancy whose interest has accrued otherwise than by purchase; or
- (b) a transfer by exchange or partition; or
- (c) a transfer by bequest or gift (including *Heba* but excluding *Heba-Bil-Ewaj* for any pecuniary consideration) in favour of the husband or wife of the testator or donor, or of any relation by consanguinity within three degrees of the testator or donor; or

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(Section 97.)

- (d) a simple or complete usufructuary mortgage or, until a decree or order absolute for foreclosure is made, a mortgage by conditional sale; or
- (e) a *Wakf* in accordance with the provisions of the Muhammadan Law; or
- (f) a dedication for religious or charitable purposes without any reservation of pecuniary benefit for any individual.

Explanation.—A relation by consanguinity shall, for the purpose of this section, include a son adopted under the Hindu Law.

(11) Nothing in this section shall take away the right of pre-emption conferred on any person by the Muhammadan Law.

(12) An application under this section shall be made to the Court which would have jurisdiction to entertain a suit for the possession of the land in connection with which the application is brought.

(13) An appeal shall lie to the ordinary Civil Appellate Court from any order of a Court under this section and, notwithstanding anything contained in any other law for the time being in force, there shall be no second appeal from an order of the first Appellate Court.

97. (1) The Provincial Government may from time to time, by notification, declare that the provisions of this section shall, in any district or local area, apply to such of the following aboriginal castes or tribes as may be specified in the notification, and that such castes or tribes shall be deemed to be aboriginals for the purposes of this section, and the publication of such notification shall be conclusive evidence that the provisions of this section have been duly applied to such castes or tribes, namely:—

Restriction on alienation of land by aboriginals.

Sonthals, Bhuiyas, Bhumijes, Dalus, Garos, Gonds, Hadis, Hajangs, Hos, Kharias, Kharwars, Kochs (Dacca Division), Koras, Maghs (Bakarganj District), Mal and Sauria Paharias, Maches, Mundas, Mundais, Oraons and Turis.

(2) Except as provided in this section, no transfer by an aboriginal *raiyat* of his right in his holding or in any portion thereof shall be valid unless it is made to another aboriginal domiciled or permanently residing in ¹[East Pakistan] who is a person to whom the transfer of such holding or portion thereof can be made under section 90.

¹The words within square brackets were substituted for the words "East Bengal" by the East Pakistan Repealing and Amending Ordinance, 1960 (E. P. Ord. XXVIII of 1960), First Schedule.

(Section 97.)

(3) If in any case an aboriginal *raiya*t desires to transfer holding or any portion thereof by private sale, gift or will to any person who is not such an aboriginal, he may apply to the Revenue-officer for permission in that behalf, and the Revenue-officer may pass such order on the application as he thinks fit.

(4) Every transfer referred to in sub-section (3) shall be made by registered deed; and before the deed is registered and the holding or any portion thereof is transferred, the written consent of the Revenue-officer shall be obtained to the terms of the deed and to the transfer.

(5) An aboriginal *raiya*t's power to mortgage his land shall be restricted to only one form of mortgage, namely, a complete usufructuary mortgage.

(6) An aboriginal *raiya*t may enter with another aboriginal, domiciled or permanently residing in ¹[East Pakistan], who is a person with whom a complete usufructuary mortgage can be entered into under sub-section (1) of section 95, into a complete usufructuary mortgage in respect of any land comprised within his holding for any period which does not and cannot, in any possible event, by any agreement express or implied, exceed seven years:

Provided that every mortgage so entered into shall be registered under the Registration Act, 1908. XVI o 1908.

(7) Any transfer made by an aboriginal *raiya*t in contravention of the provisions of this section shall be void.

(8) (a) If a transfer of a holding or any portion thereof is made by an aboriginal *raiya*t in contravention of the provisions of this section, the Revenue-officer may, on his own initiative or on application made in that behalf, by an order in writing, eject the transferee from such holding or portion:

Provided that the transferee shall be given an opportunity of showing cause against such ejection before the order is passed.

(b) When the Revenue-officer has passed any order under clause (a), he shall either (i) restore the transferred land to the aboriginal or his heir or legal representative or, (ii) failing the transferor or his heir or legal representative, declare that the land has vested in the Provincial Government and the Revenue-officer may settle the land with another aboriginal.

¹The words within square brackets were substituted for the words "East Bengal" by the East Pakistan Repealing and Amending Ordinance, 1960 (E. P. Ord. XXVIII of 1960), First Schedule.

of 1951.]

(Sections 98, 99.)

(9) Notwithstanding anything contained in any other law for the time being in force, no decree or order shall be passed by any Court for the sale of the right of any aboriginal, *raiyat* in his holding or any portion thereof, nor shall any such right be sold in execution of any decree or order:

Provided that any holding belonging to an aboriginal may be sold, according to the provisions of this Act, in execution of a certificate for the recovery of the arrears of rent of the holding.

(10) The Provincial Government may, by notification, declare that this section shall, in any district or local area, cease to apply to any caste or tribe to which it may have been applied under sub-section (1).

CHAPTER XIV.

Provisions as to enhancement and reduction of rent.

98. (1) The rent of a *raiyat* shall not be enhanced, reduced or altered except as provided in this Chapter. Revision of rents of *rai-yats*.

(2) Nothing in this Chapter shall apply to non-agricultural lands.

99. (1) The Provincial Government may make an order directing the Revenue-officer— Order for determination of rent-rates and preparation of settlement rent-roll.

(a) to determine the rent-rates for any district or part of a district or local area in accordance with the provisions of this Chapter and of such rules as may be made in this behalf by the Provincial Government and to prepare in the prescribed form and manner a table of rent-rates in which the rent-rate so determined, together with such other particulars as may be prescribed, shall be specified; and

(b) after the table of rent-rates in respect of any district, part of a district or local area has been prepared and confirmed under this Chapter, to settle fair and equitable rents for all tenants in such district or part or area and to prepare in the prescribed form and manner a settlement rent-roll in which the rents so settled, together with such other particulars as may be prescribed, shall be specified.

(2) A notification in the *Official Gazette* of an order under this section shall be conclusive evidence that the order has been duly made.

(Sections 100, 101.)

Procedure in
determining
rent-rates.

100. (1) When an order is made under clause (a) of sub-section (1) of section 99, the Revenue-officer shall, for the purpose of determining the rent-rates for the area specified in such order, divide such area into as many suitable units of area as he considers necessary having regard to the conditions of the land and the principal crops grown in such area, and the Revenue-officer shall then determine the rent-rates for different classes of lands in each such unit.

(2) In determining the rent-rates for different classes of land under sub-section (1), the Revenue-officer shall take into consideration—

- (a) the nature of the soil and the general productivity of the class of land for which the rent-rate is being determined;
- (b) the normal yield per acre of the land to be determined in the prescribed manner;
- (c) the average prices of the crops grown on such land calculated on the basis of the average prices of such crops prevailing during the preceding twenty years excluding the years in which such prices were abnormal;
- (d) any means of irrigation or drainage or any other special facilities for cultivation of such land;
- (e) the result of any work of agricultural improvement effected within any particular unit at the expense of Government; and
- (f) the existing rates of rent or the average rate of rent determined in the prescribed manner.

(3) The rate of rent per acre for any class of land determined under sub-section (1) shall not exceed one-tenth of the total value of the produce per acre of such land obtained by multiplying the normal yield per acre of such land, determined in the manner prescribed, by the average price of crops grown in such land referred to in clause (c) of sub-section (2) or five-fourths of the existing rate of rent or the average rate of rent, determined in the prescribed manner, of such land, whichever is less.

Preliminary
and final
publication
of table of
rent-rates
and its
confirmation
by the pres-
cribed supe-
rior Revenue
Authority.

101. (1) When the Revenue-officer has prepared a table of rent-rates, he shall cause a draft of it to be published in the prescribed manner and for the prescribed period in the area or village to which it relates.

(2) Any person objecting to any entry in the table of rent-rates may present a petition to the Revenue-officer within thirty days from the first date of publication under sub-section (1), and the Revenue-officer shall consider any such objection and may alter or amend the table.

(Sections 102—105.)

If no objection is made within the said period or, objections are made, after they have been disposed of, the revenue-officer shall submit his proceedings to the present Revenue Authority with a full statement of the reasons for his proposals together with all the necessary particulars relating to the value of the produce per acre of the existing rent-rates for each class of land and a statement of the objections (if any) which he has received.

The superior Revenue Authority may confirm a settlement submitted under sub-section (3), with or without modification, or may return it for revision.

When a table of rent-rates has been confirmed by the present Revenue Authority, the order confirming it shall be conclusive evidence that the proceedings for the preparation of the table have been duly conducted in accordance with this Act, and it may be presumed that the rates shown in the table for each class of land are fair and equitable and applicable for land of that class within the area to which the table applies.

The rate of rent for any class of land shown in the table of rent-rates confirmed under section 101 shall be the maximum rate at which the rent of a *raiyat* for such land can be settled. Rate shown in the table to be the maximum rate.

The particulars regarding the principal crops grown on the land within any unit of area, the normal yield of such land in such unit, the average price of crops grown on such land in clause (c) of sub-section (2) of section 100, the rates of rent determined for such land and the rates of rent determined for the different classes of land within such unit under this Chapter shall form part of the record-of-rights of such unit maintained under this Part. Rates of rent, etc., determined under this Chapter to form part of record-of-rights.

When the rent-rates for any district, part of a district or unit of area have been determined under this Chapter and shown in a table of rent-rates confirmed under section 101, they shall not be changed until after a period of five years has elapsed from the date of such confirmation. Duration of rent-rates.

(1) The rent payable by a *raiyat* in respect of any land shall be liable to enhancement on the ground that the rent payable by him is substantially lower than the rent payable at the rates of rent determined under this Chapter for similar classes of land in the unit in which the land is situated and entered in the table of rent-rates, confirmed under section 101, applicable to such unit. Grounds of and limits to enhancement of rent.

(Sections 106—108.)

(2) If the Revenue-officer considers that an immediate increase of rent will cause hardship, he may direct that enhancement shall take effect by yearly increments extending over a period not exceeding five years as the Revenue-officer may fix in this behalf.

Grounds for reduction of rent.

106. The rent payable by a *raiyat* in respect of which may be reduced on one or more of the following grounds, namely:—

- (a) that the rent payable by the *raiyat* is substantially higher than the rent calculated at the rate determined under this Chapter for the class of land in the unit in which the holding is situated and in the table of rent-rates, confirmed under section 101, applicable to such unit;
- (b) that the soil of the holding has deteriorated as a result of the deposit of sand or through the operation of other natural causes, such as drought, gradual; and
- (c) that there has been any breakdown of the arrangements for irrigation or drainage or the maintenance of any embankments or other works which were in existence at the time when the rent was last settled, and the soil of the holding has thereby deteriorated.

Settlement of fair and equitable rents.

107. (1) After a table of rent-rates has been prepared and confirmed under this Chapter, the Revenue-officer shall proceed to settle, according to the provisions of the following sections, the fair and equitable rents of all the land in the area to which the table of rent-rates applies, and shall prepare the settlement rent-roll as directed under section 99.

(2) For the purpose of settling such fair and equitable rents and preparing the settlement rent-roll, the Revenue-officer shall be guided by the rent-rates entered in the table of rent-rates so prepared and confirmed:

Provided that a Revenue-officer shall not be bound to apply the said rates to any particular case or area unless he considers, for reasons to be recorded in writing, that the application of such rates to such case or area would be unfair or inequitable.

Preliminary publication and amendment of settlement rent-roll.

108. (1) When a settlement rent-roll has been prepared, the Revenue-officer shall cause a draft of the same to be published in the prescribed manner and for the proper period and shall receive and consider any objections to an entry therein or omission therefrom during

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(Sections 109, 110.)

period of publication and shall dispose of such objections according to such rules as the Provincial Government may make.

(2) The Revenue-officer may, of his own motion or on application of any party aggrieved, at any time before a settlement rent-roll is submitted to the confirming authority under section 109, revise any rent entered therein:

Provided that no such entries shall be revised until reasonable notice has been given to the tenant concerned to appear and be heard in the matter.

109. (1) When all objections have been disposed of under section 108, the Revenue-officer shall submit the settlement rent-roll to the prescribed confirming authority with a full statement of the grounds for his proposals and a summary of the objections (if any) which he has received.

Sanctioning and final publication of the settlement rent-roll and incorporation of the same in the record-of-rights.

(2) The confirming authority may sanction the settlement rent-roll with or without amendment or may return it for revision:

Provided that no entry shall be amended or omission supplied until reasonable notice has been given to the tenant concerned to appear and be heard in the matter.

(3) After sanction by the confirming authority the Revenue-officer shall finally frame the settlement rent-roll and publish it in such manner as may be prescribed and shall incorporate it in the record-of-rights for the area, to which such settlement rent-roll relates, maintained under this Part; and such publication shall be conclusive evidence that the settlement rent-roll has been duly made under this Chapter.

110. (1) An appeal, if presented within two months from the date of the order appealed against, shall lie from every order passed by a Revenue-officer on any objection made under section 108, or from an order passed by the confirming authority under section 109 to the prescribed superior Revenue Authority.

Appeal to and revision by superior Revenue Authority.

(2) The Board of Revenue may in any case under this Chapter, on application or of its own motion, direct the revision of any settlement rent-roll or any portion of it at any time within six months of the date of the order sanctioning the settlement rent-roll under sub-section (2) of section 109 or any order passed by the superior Revenue Authority under sub-section (1), whichever is later, but not so as to affect any order passed by the Special Judge under section 111:

(Sections 111—115.)

Provided that no such direction shall be made until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

Appeal to the Special judge.

111. (1) Any person aggrieved by an order passed by the Revenue-officer on any objection made under section 108 or an order passed by the confirming authority under section 109, may present an appeal in the prescribed manner against such order, within three months of the final publication under sub-section (3) of section 109 of the settlement rent-roll to which such appeal relates, to the Special Judge appointed by the Provincial Government in this behalf provided that no appeal has been presented regarding the matter to the prescribed superior Revenue Authority under sub-section (1) of section 110.

(2) Subject to such orders as may be passed by the High Court in its revisional jurisdiction, the order of the Special Judge, on the appeal, shall be final; and no appeal shall lie to the High Court against the order of the Special Judge under this section.

(3) The provisions of the Code of Civil Procedure, V of 1908, shall, so far as it may be, apply to all appeals presented to the Special Judge under this section.

Presumption as to rents settled under this Chapter.

112. All rents settled under this Chapter shall be deemed to have been correctly settled and to be fair and equitable rents.

Date from which settlement takes effect.

113. When a rent is settled by a Revenue-officer under this Chapter in respect of any area, it shall, subject to sections 110 and 111, take effect from the beginning of the agricultural year next after the date of the final publication under sub-section (3) of section 109 of the settlement rent-roll in which such rent is specified.

Period for which rent as settled is to remain unaltered.

114. When the rent of a tenant has been settled under this Chapter, it shall not be enhanced for a period of thirty years; and no such rent shall be reduced within the said period save on the ground specified in clause (b) or clause (c) of section 106.

Bar to jurisdiction of Civil Court.

115. No suit or other legal proceeding shall be instituted in any Civil Court in respect of the determination of rent-rates or the settlement of any rent or the omission to determine any rent-rate or to settle any rent under this Chapter, except as provided in section 111.

CHAPTER XV.

Amalgamation, Subdivision and Consolidation of holdings.

116. Where various parcels of land are held by one tenant within one village, and such parcels of land or some of them are the subject of separate tenancies, such parcels of land shall, under the orders of the Revenue-officer, be amalgamated into one tenancy:

Amalgama-
tion of hold-
ing of a
tenant in the
same village.

Provided that no such amalgamation shall be ordered by the Revenue-officer if the tenant has any objection thereto which appears to such officer to be reasonable and sufficient.

117. The Revenue-officer, on application made to him by one or more co-sharer tenants for the division of a holding and for distribution of the rent payable in respect thereof, may, by order in writing, direct such division of the holding and distribution of rent thereof ¹[including arrears of rent, if any,] as he considers fair and equitable:

Subdivision
of a holding
and restric-
tions thereon

Provided that—

(a) no such orders shall be passed unless reasonable notice has been given to the parties concerned to appear and be heard in the matter, and

(b) no order for the division of a holding and the distribution of the rent thereof shall be made which would result in bringing the rent of any portion to below rupee one.

118. (1) If no order for the division of a holding and the distribution of rent thereof can be made under section 117 by reason of the restrictions contained in clause (b) of the proviso to that section, a co-sharer tenant of such holding may apply in the prescribed manner to the Revenue-officer for the transfer of his interest in the holding to other co-sharer tenants thereof, to whom a transfer of land can be made under sub-section (2) of section 90, on payment of compensation to him.

Transfer of
the interest
of a co-
sharer tenant
in a holding
on payment
of compensa-
tion.

(2) On receipt of such application the Revenue-officer shall, if he is satisfied that the application is in order, determine the amount of compensation which he considers to be fair and equitable and declare by order in writing the amount so determined to be payable to the applicant by the remaining co-sharer tenant or tenants for the transfer of the interest of the applicant in the holding to such tenant or tenants; and thereupon the remaining co-sharer tenant or, if there be more such tenants than one, all such tenants jointly and severally shall be liable to pay the amount so determined:

¹These words and commas were inserted by E. B. Act XII of 1954, section 15.

(Sections 118, 119.)

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Provided that no such order shall be made until reasonable notice has been given to the remaining co-sharer tenants of the holding to appear and be heard in the matter.

(3) In determining the amount of compensation under sub-section (2), the Revenue-officer shall take into consideration the encumbrance, if any, secured by a registered instrument to which the interest of the applicant in the holding is subject.

(4) In declaring, by order in writing, the amount of compensation payable to the applicant by the remaining co-sharer tenants under sub-section (2), the Revenue-officer shall fix in the order the period within which the amount of such compensation shall be payable and may direct the payment of such compensation by such yearly instalments extending over a period not exceeding five years as he may fix in this behalf.

(5) The amount of compensation ordered to be paid by instalments by the remaining co-sharer tenants under sub-section (4) shall be a charge on the entire land comprised in the holding of such co-sharer tenants on such transfer; and the said charge shall take priority over every other charge on the holding other than a charge for arrear of rent.

(6) If default is made in payment of any amount declared by order in writing under sub-section (2) to be payable to a co-sharer tenant, such amount shall be recoverable by such tenant as an arrear of public demand.

(7) When the Revenue-officer makes an order under sub-section (2), the right, title and interest of the co-sharer tenant, who made the application under this section, in the holding in respect of which such order has been made shall, with effect from the first day of the agricultural year next following the date of such order, vest in the remaining co-sharer tenant or in the remaining co-sharer tenants jointly, as the case may be, of the holding; and the liability of the co-sharer tenant, who made such application, for the rent due from him on account of the holding shall cease; and the co-sharer tenant or tenants in whom such right, title and interest vest shall be liable for the rent so due.

Persons entitled to apply for consolidation of holding.

119. (1) Any two or more *rai-yats* having lands in the same or contiguous villages may apply in the prescribed form to the Revenue-officer for consolidation of their holdings and submit along with such application a scheme for such consolidation.

(2) If not less than two-thirds of the *rai-yats* in a village or a block of villages, which form one continuous area, holding not less than three-fourths of the total cultivable

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(Sections 120—122.)

area in such village or block of villages, make an application under sub-section (1) for consolidation of their holdings, such application shall be deemed to be an application on behalf of all the *rai-yats* of such village or block of villages.

120. (1) On receipt of any application for consolidation under section 119, the Revenue-officer shall enquire into such application in the prescribed manner and shall, if he considers after such enquiry that there are good and sufficient reasons for rejecting such application or excluding any of such land from consolidation, submit the application to the prescribed superior Revenue Authority with a recommendation that the application be rejected, or disallowed in part, specifying his reasons therefor; and on receipt of such recommendation, such superior Revenue Authority shall pass such orders thereon as he thinks proper.

Admission of application.

(2) If the Revenue-officer does not make any recommendation under sub-section (1), or if such superior Revenue Authority, on receipt of the recommendation of the Revenue-officer, makes an order directing the Revenue-officer to admit the application in whole or in part, the Revenue-officer shall admit such application either in whole or in part, as the case may be, and shall deal with it in accordance with the provisions of this Chapter and of any rules made by the Provincial Government under this Act.

121. When a scheme for the consolidation of holding is submitted along with an application under sub-section (1) of section 119, and such scheme, including any stipulation for payment of any compensation by one party to another contained in such scheme, has been agreed to by all the *rai-yats* affected by it, the Revenue-officer shall, after admitting the application either in whole or in part under section 120, examine such scheme and may, after such examination, either confirm the scheme with or without modification or may return it for revision and may confirm it after such revision:

Confirmation of agreed schemes for consolidation.

Provided that the Revenue-officer shall not confirm the scheme if the sum total of the rent of all holdings under the scheme has been reduced by the distribution of the rent consequent on redistribution of lands.

122. (1) In the case where no scheme for the consolidation of holdings is submitted along with the application under sub-section (1) of section 119, or where any such scheme has been submitted with such application but has not been agreed to by all the *rai-yats* affected by it, the Revenue-officer shall prepare a scheme for consolidation of the holdings of the applicants, and in the case where an

Preparation of a scheme for consolidation and appointment of Advisory Committee.

(Section 123.)

application has been made under sub-section (2) of that section the Revenue-officer shall prepare a scheme for the consolidation of the holdings of each *raiayat* in the village or in the block of villages to which such application relates; and every such scheme shall be prepared in accordance with the provisions of this Act and of such rules as may be made by the Provincial Government in this behalf.

(2) For the purpose of assisting him in the preparation of a scheme for consolidation of holdings under sub-section (1) in any local area, the Revenue-officer may, subject to such rules as may be made by the Provincial Government in this behalf, appoint an Advisory Committee in respect of such area.

(3) In preparing a scheme for the consolidation of holdings under sub-section (1), the Revenue-officer shall have due regard to any proposal with regard to the consolidation which has the largest measure of agreement amongst the parties affected by it, and in making the redistribution of lands for the purpose of the consolidation, he shall see that the total area of a holding or the profit to be derived therefrom is affected as little as possible.

(4) If in preparing a scheme for the consolidation of holdings under sub-section (1), it appears to the Revenue officer that the redistribution of lands will result in allotment to any *raiayat* of any parcel of land of market value lower than the market value of his original parcel of land, the Revenue-officer shall in the scheme provide for the payment of compensation to such *raiayat* by the *raiayat* or *raiayats* who, in the opinion of the Revenue-officer, will be benefited by the allotment of the more valuable land of the first-named *raiayat*.

Draft publication of the scheme and hearing of objections.

123. (1) When a scheme for consolidation of holdings has been prepared, the Revenue-officer shall cause a draft of the scheme to be published in the prescribed manner and for the prescribed period and shall receive and consider any objections made in regard to any entry therein or omission therefrom during the period of publication and shall dispose of such objections according to such rules as the Provincial Government may make in this behalf.

(2) If no objection is made within the said period or, where objections are made, the Revenue-officer succeeds in meeting all such objections and the persons who made the objections have withdrawn them, the Revenue-officer shall pass an order confirming the scheme.

(3) If, where objections are made, the persons making the objections do not withdraw them, the Revenue-officer shall, after considering all the circumstances of the case, and

(Sections 124—127.)

giving the parties concerned an opportunity of being heard, pass such orders thereon as he thinks proper, and may thereafter make an order confirming the scheme with or without modification.

124. (1) Any person aggrieved by an order of the Revenue-officer confirming a scheme under section 121 or under sub-section (2) or sub-section (3) of section 123 may, within the period prescribed in this behalf, prefer an appeal in the prescribed manner to the prescribed superior Revenue Authority and the decision of the said superior Authority on such appeal shall, subject to the provisions of sub-section (2), be final. Appeals.

(2) A second appeal, if presented in the prescribed manner and within the period prescribed in this behalf, shall lie from every order passed on appeal under sub-section (1) by such superior Revenue Authority to the Board of Revenue.

125. When the time within which appeals may be made under sub-section (1) of section 124 has expired and, if any such appeal has been made, when the time within which the second appeal may be made under sub-section (2) of that section has also expired, and all appeals made under sub-sections (1) and (2) of that section have been disposed of, and no order rejecting the scheme has been finally passed on such appeal, the Revenue-officer shall, if necessary, modify the scheme to give effect to any orders passed on appeal under the said section, if any, and shall thereafter record an order finally confirming the scheme. Final confirmation of the scheme.

126. (1) Upon the final confirmation of a scheme for consolidation of holdings under section 125, the Revenue-officer shall cause the record-of-rights, maintained under this Part, of the village or villages to which such scheme relates, to be modified in accordance with the scheme as finally confirmed; and every tenant affected by such scheme shall be entitled to obtain free of cost from the Revenue-officer a copy of the record-of-rights, so modified, containing the entries as relating to him. Modification of the village record-of-rights on confirmation of the scheme and the date from which the scheme takes effect.

(2) When a scheme for the consolidation of holdings has been finally confirmed under section 125, it shall take effect from the beginning of the agricultural year next after the date of the final confirmation of such scheme.

127. As soon as may be after a scheme for the consolidation of holdings takes effect, the Revenue-officer shall depute a surveyor or *amin* to demarcate the boundaries of the holdings affected by the scheme or to take such other steps for the identification on the spot of the land included in the holdings so affected as the Revenue-officer may approve. Demarcation of the boundaries of holdings.

(Sections 128, 129.)

Effect of final confirmation of scheme for consolidation and the rights of *rai-yats* there under.

128. (1) Where a scheme for the consolidation of holdings has been prepared on an application made under sub-section (1) of section 119, such scheme shall, on final confirmation, be binding on the applicant or applicants and all persons who have agreed to the consolidation of their holdings and also on every person who may subsequently be entitled to hold or occupy any land included in the scheme or have any right or interest in such land.

(2) Where any such scheme has been prepared on an application referred to in sub-section (2) of section 119, such scheme shall, on final confirmation, be binding on all the *rai-yats* in the village or villages to which such scheme relates and on every person who may subsequently be entitled to hold or occupy any land or any right or interest in land in such village or villages.

(3) Every *rai-yat* affected by any scheme for the consolidation of holdings finally confirmed under section 125 shall be entitled to the possession of the holding allotted to him under the scheme with effect from the date on which the scheme takes effect; and the Revenue-officer may, on application made in this behalf by such *rai-yat*, cause such steps to be taken as he may consider necessary for putting such *rai-yat* in possession of the holding so allotted to him.

(4) A *rai-yat* shall have the same right in the holding allotted to him under a scheme for the consolidation of holdings finally confirmed under section 125 as he had in his original holding before such consolidation.

Encumbrances on land included in the scheme for consolidation.

129. (1) Notwithstanding anything contained in any other law for the time being in force or in any contract, if the holding of a *rai-yat* comprised within a scheme for the consolidation of holdings finally confirmed under section 125 is, immediately before the date on which such scheme takes effect, subject to any mortgage or other encumbrance, such mortgage or other encumbrance shall, with effect from such date, be deemed to be transferred and attached to the holding created and allotted to such *rai-yat* under the said scheme or to such part of such holding as may be specified in the scheme by the Revenue-officer; and thereupon the mortgagee or other encumbrancer, as the case may be, shall cease to have any right in or against the land from which the mortgage or other encumbrance has been transferred and shall continue to have the same rights in or against the holding so allotted or to such part thereof as he had in or against the original land from which the mortgage or other encumbrance had been transferred.

(2) Notwithstanding anything contained in sub-section (3) of section 128 the Revenue-officer may, on application made in this behalf by any mortgagee or other encumbrancer

(Sections 130—135.)

entitled to possession of any holding or part thereof to which his mortgage or other encumbrance has been transferred under sub-section (1), cause such steps to be taken as he may consider necessary for putting such mortgagee or other encumbrancer in possession of such holding or part thereof.

130. Notwithstanding anything contained in any other law for the time being in force, no instrument in writing shall be necessary in order to give effect to a transfer involved in carrying out any scheme for consolidation of holdings. No instrument necessary to effect transfer.

131. Where, during the pendency of proceedings under this Chapter and after an application has been made under section 119 for the consolidation of holdings, any holding, to which such application relates, is transferred, the transferee shall be deemed to be a party to such application and shall be substituted in place of the transferor of the holding. Transfer of holding during the pendency of the proceedings for consolidation.

132. (1) The costs of proceedings of the consolidation of holdings under this Chapter shall, on the final confirmation under section 125 of the scheme for such consolidation, be assessed in the prescribed manner and be, subject to such rules as may be made by the Provincial Government in this behalf, recovered from the *rai-yats*, whose holdings are affected by such scheme: Recovery of the cost of consolidation proceedings.

Provided that no costs shall be recoverable in respect of any proceedings arising out of an application under sub-section (1) of section 119 where the applicants have submitted an agreed scheme for consolidation of their holdings.

(2) The portion of the aforesaid costs which any *rai-yats* is liable to pay shall be recoverable by the Provincial Government as an arrear of rent due in respect of the holding of the *rai-yats* affected by the said scheme.

133. Any amount specified in any scheme finally confirmed under section 125 as payable as compensation shall be recoverable as an arrear of public demand. Recovery of compensation as arrears of public demand.

134. No Civil Court shall entertain any application or suit concerning any matter relating to consolidation of holdings of *rai-yats* dealt with in this Chapter. Bar to jurisdiction of Civil Courts.

CHAPTER XVI.

Provisions as to rent and realisation of rent.

135. (1) Subject to agreement or established usage, the rent payable by a *rai-yat* shall be paid in two equal instalments falling due on such dates as may be prescribed. Instalment of rent.

(Sections 136—138.)

(2) Subject to agreement, the rent payable by a non-agricultural tenant shall be paid in one annual instalment falling due on the last day of the agricultural year.

Time and place for payment of rent.

136. (1) Every *raiyat* shall pay or tender each instalment of rent and every non-agricultural tenant shall pay or tender the rent before sunset of the day on which it falls due:

Provided that the *raiyat* or the non-agricultural tenant may pay or tender the rent payable for the year at any time during the year before it falls due.

(2) The payment or tender of rent may be made—

(a) at the village *tahasil* office or at such other convenient place as may be appointed in that behalf by the Collector; or

(b) by postal money-order in the manner prescribed.

(3) When rent is sent by postal money-order in the prescribed manner it shall be presumed, until the contrary is proved, that a tender has been made.

(4) When rent sent by postal money-order is accepted, the fact of this acceptance shall not be used in any way, as evidence of the correctness of any of the particulars set forth in the postal money-order form.

(5) Any rent or any instalment or part of an instalment of rent not duly paid at or before the time when it falls due shall be deemed to be an arrear.

Appropriation of payment.

137. When a *raiyat* or a non-agricultural tenant makes a payment on account of rent, such payment shall be credited towards the arrears, if any, the recovery of which is not barred by law for the time being in force, and the balance, if any, after the arrears have been satisfied, and where there is no arrear, the whole amount, shall be credited as the rent of the current year.

Raiyat making payment of his rent entitled to a receipt.

138. Every *raiyat* or non-agricultural tenant who makes a payment on account of rent shall be entitled to obtain forthwith, from the person authorised in writing by the Collector to receive such rent, a written receipt in the prescribed form for the amount paid by him signed by the person so authorised.

¹Section 137 was substituted for the original section 137 by the East Bengal State Acquisition and Tenancy (Fifth Amendment) Ordinance, 1959 (E. P. Ord. No. LXIX of 1959), section 2.

of 1951].

(Sections 139—143.)

139. The holding of a *raiyyat* or the tenancy of a non-agricultural tenant shall be liable to sale in execution of a certificate signed under the Bengal Public Demands Recovery Act, 1913, for the rent thereof, and the rent shall be a first charge thereon. Liability of holding to sale for arrears.

Ben. Act III of 1913.

140. An arrear of rent shall bear simple interest at the rate of six and a quarter *per centum per annum* from the expiry of the year in which the rent or instalments of rent, as the case may be, fall due to the date of payment or of the filing of the certificate under the Bengal Public Demands Recovery Act, 1913, whichever date is earlier. Interest on arrears.

Ben. Act III of 1913.

141. All arrears of rent shall be recoverable under the Bengal Public Demands Recovery Act, 1913, subject to such rules as may be made in this behalf by the Provincial Government and not otherwise: Realisation of arrears of rent under the Bengal Public Demands Recovery Act, 1913.

Ben. Act III of 1913.

Provided that a certificate signed under the said Act for arrears of rent shall not be executed by arresting the certificate-debtor and detaining him in the civil prison or by the attachment and sale of any movable or immovable property other than the land to which the arrears of rent, in respect of which the certificate has been signed, relates.

142. The period of limitation for the recovery of an arrear of rent shall be three years running from the last day of the year in which the arrear fell due. Limitation.

CHAPTER XVII.

Maintenance and revision of the record-of-rights.

143. The Collector shall maintain up-to-date, in the prescribed manner, the record-of-rights prepared or revised under Part IV and modified under section 46 ¹[by correcting *bona fide* mistakes and] by incorporating therein the changes on account of— Maintenance of the record-of-rights.

(a) the mutation of names as a result of transfer or inheritance;

(b) the subdivision, amalgamation or consolidation of holdings;

¹The words within square brackets were inserted by the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1958 (B. P. Ord. No. XLIV of 1958), section 21.

(Sections 144, 145.)

- (c) the new settlement of lands or of holdings purchased by the Provincial Government; and
- (d) the abatement of rent on account of abandonment or diluvion or acquisition of land.

Revision of
the record-
of-rights.

144. (1) The Provincial Government may in any case if it thinks fit make an order directing that a record-of-rights in respect of any district, part of a district or local area be revised by a Revenue-officer in accordance with such rules as may be made by the Provincial Government in this behalf.

(2) In particular, and without prejudice to the generality of the foregoing power, the Provincial Government may make such order in any of the following cases, namely :—

- (a) where not less than one-half of the total number of tenants applies for such an order;
- (b) where the revision of such a record is calculated to settle or avert a serious dispute existing or likely to arise amongst the tenants; and
- (c) where a settlement of rent is being or about to be made in respect of any district, part of a district or local area.

Recovery of
the cost of
revision of
record-of-
rights.

145. (1) Where the revision of a record-of-rights has been directed under this Chapter in respect of any district, part of a district or local area, the expenses incurred in respect of such revision shall be recoverable from the *rai-yats* and other occupants of land in such proportions and in such instalments, if any, as the Provincial Government, having regard to all the circumstances, may determine:

Provided that no part of these expenses shall be recoverable from the *rai-yats* and other occupants in the case where the revision of the record-of-rights has been undertaken under clause (c) of sub-section (2) of section 144 with a view to settlement of fair and equitable rents of such *rai-yats* under the provisions of Chapter XIV.

(2) The portion of the aforesaid expenses which any person is liable to pay under sub-section (1) shall be recoverable by the Provincial Government as if it were an arrear of rent due in respect of the holding or other interest, as the case may be, of such person, situated within the said district, part of a district or local area.

(Sections 146—149.)

CHAPTER XVIII.

Jurisdiction, Appeal, Revision and Review.

146. (1) Subject to supervision by the Provincial Government, the general superintendence and control over all Revenue-officers shall be vested in, and all such officers shall be subordinate to, the Board of Revenue. Superintendence and control of Revenue-officers.

(2) Subject to the general superintendence and control of the Board of Revenue, a Commissioner of a division shall exercise control over all other Revenue-officers in his division.

(3) Subject as aforesaid and to the control of the Commissioner of the division, a Collector shall exercise control over all other Revenue-officers in his district.

147. Subject to any special provisions for appeal made in this Part or in any rules made under this Act, an appeal shall lie from every original or appellate order made under any of the provisions of this Part by a Revenue-officer as follows, namely :— Appeals.

- (a) to the Collector, when the order is made by a Revenue-officer subordinate to the Collector;
- (b) to the Commissioner of the division, when the order is made by the Collector of a district within the division; and
- (c) to the Board of Revenue, when the order is made by the Commissioner of a division.

148. The period of limitation for an appeal under section 147 shall run from the date of the order appealed against and shall be as follows, that is to say— Limitation for appeals.

- (a) when the appeal lies to the Collector.....
.....thirty days.
- (b) When the appeal lies to the Commissioner of a division.....sixty days.
- (c) When the appeal lies to the Board of Revenue
.....ninety days.

149. (1) Subject to any special provision for revision made in this Part, the Collector may of his own motion within one month of the date of any order passed under this Part by a Revenue-officer subordinate to him or on application made in that behalf within one month of the date of such order, revise such order. Revision.

(Section 150.)

(2) The Commissioner of a division may, of his own motion, within three months of the date of any order passed under this Part by the Collector of a district within the division or on an application made in that behalf within three months of the date of such order, revise such order.

(3) The Board of Revenue may, of its own motion, within six months of the date of any order passed under this Part by the Commissioner of a division or on an application made in that behalf within six months of the date of such order, revise such order.

(4) The Board of Revenue may at any time order the correction of any entry in a record-of-rights maintained under this Part or in a settlement rent-roll prepared and finally published under this Part which, it is satisfied, has been made owing to a *bona fide* mistake:

Provided that an order shall not be revised under this section if an appeal has been preferred against such order:

Provided further that no order for correction shall be made under sub-section (4) until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

Review by
Revenue-
officers.

150. (1) A Revenue-officer may, on application made in that behalf by any party interested or of his own motion review any order passed by himself or by any of his predecessors in office under this Part, and in so reviewing any order, may modify, reverse or confirm any such order:

Provided that—

- (a) an application for review of an order shall not be entertained unless it is made within thirty days from the date of such order or, when such application is presented after the expiry of the said period of thirty days, unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within the said period;
- (b) an order shall not be reviewed if an appeal has been preferred against such order or an application for revision of such order has been made to the superior Revenue Authority; and
- (c) an order shall not be modified or reversed on a review until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

(Section 152.)

- (f) the manner of selection of land by the Revenue-officer for transferring encumbrances under section 94;
- (g) the procedure to be followed and the power to be exercised by Revenue-officers in determining the rent-rates referred to in clause (a) of sub-section (1) of section 99, and the form of a table of rent-rates under that clause, the manner of preparing such table and the particulars to be specified therein;
- (h) the form of a settlement rent-roll under clause (b) of sub-section (1) of section 99, the manner of preparing the same and the particulars to be specified therein;
- (i) the manner of determining the normal yield per acre of land referred to in clause (b) of sub-section (2) and in sub-section (3) of section 100;
- (j) the manner of determining the average rate of rent referred to in clause (f) of sub-section (2) and in sub-section (3) of section 100;
- (k) the manner and period of publication of a draft table of rent-rates under sub-section (1) of section 101 and the Revenue Authority referred to in sub-section (3) of that section;
- (l) the manner and period of publication of a draft settlement rent-roll under sub-section (1) of section 108, and the disposal of objection that sub-section;
- (m) the confirming authority referred to in sub-section (1) of section 109 and the manner of final publication of the settlement rent-roll under sub-section (3) of that section;
- (n) the superior Revenue Authority referred to in sub-section (1) of section 110;
- (o) the manner of presenting an appeal referred to in sub-section (1) of section 111;
- (p) the manner of making an application under sub-section (1) of section 118;
- (q) the form of the application referred to in sub-section (1) of section 119;

of 1951.]

(Sections 151—152.)

(2) No appeal shall lie from an order rejecting an application for review or confirming on a review any previous order.

IX of 1908. 151. (1) Sections 6, 7, 8 and 9 and sub-section (2) of section 29 of the Limitation Act, 1908, shall not and, subject to the provisions of Part V of this Act, the remaining provisions of the former Act, shall, so far as applicable, apply to all suits, appeals and applications arising under the said Part.

Computation of the period of limitation for appeals, applications for revision and review under this A

(2) All suits, appeals and applications referred to in Part V shall be instituted and made within the time prescribed therefor; and every such suit instituted, appeal preferred, and application made, after the prescribed period of limitation shall be dismissed, although limitation has not been pleaded.

CHAPTER XIX.

Rules.

152. (1) The Provincial Government may, after previous publication, make rules for carrying out the purposes of this Part. Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the form of the application referred to in sub-section (1) of section 86 and the manner of and procedure for determining the amount of abatement referred to in that sub-section;
- (b) the form and the manner of service of the notice referred to in sub-section (3) of section 87;
- (c) the form of the notice referred to in clause (a) of sub-section (1) and sub-section (4) of section 89 and the amounts of process fees referred to therein;
- (d) the Revenue Authority referred to in sub-sections (3) and (4) of section 90;
- (e) the form of the notice referred to in clause (b) of sub-section (1) of section 92 and the manner in which and the period within which such notice is to be given, and the manner of publication of the notice referred to in sub-section (3) of that section;

(Section 152.)

- (r) the manner of making the inquiry referred to in sub-section (1) of section 120, -the superior Revenue Authority to whom the application referred to in that sub-section is to be submitted by the Revenue-officer and the procedure to be followed in dealing with the applications referred to in sub-section (2) of that section;
- (s) the manner of preparation of the scheme for consolidation of holdings referred to in sub-section (1) of section 122 and the appointment and constitution of the Advisory Committee referred to in sub-section (2) of that section;
- (t) the manner and period of publication of a draft scheme for consolidation of holdings under sub-section (1) of section 123 and the disposal of objections under that sub-section;
- (u) the period within which and the manner in which an appeal under sub-section (1) of section 124 and a second appeal under sub-section (2) of that section shall be presented and the superior Revenue Authority referred to in sub-section (1) of that section;
- (v) the manner of assessment of the cost of proceedings for consolidation of holdings referred to in sub-section (1) of section 132 and the recovery of such cost under that sub-section;
- (w) the dates of payment of instalments of rent referred to in sub-section (1) of section 135;
- (x) the manner of payment or tender of rent by postal money order under section 136;
- (y) the form of the written receipt referred to in section 138;
- (z) the procedure to be followed in recovering arrears of rent under section 141;
- (za) the manner in which the record-of-rights referred to in section 143 shall be maintained up-to-date;
- (zb) the procedure to be followed and the powers to be exercised by Revenue-officers in revising the record-of-rights under section 144.

THE SCHEDULE.

Enactments Repealed.

(See section 80.)

Year.	No.	Short title.	Extent of repeal.
1	2	3	4
<i>Bengal Regulations.</i>			
1793	I	The Bengal Permanent Settlement Regulation, 1793.	The whole.
1793	II	The Bengal Land-revenue Regulation, 1793.	So much as has not been repealed.
1793	VIII	The Bengal Decennial Settlement Regulation, 1793.	Ditto.
1793	XIX	The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793.	Ditto.
1793	XXXVII	The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793.	Ditto.
1794	III	The Bengal Native Revenue-officers Regulation, 1794.	Ditto.
1800	VIII	The Bengal Revenue-free Lands Regulation, 1800.	Ditto.
1801	I	The Bengal Land-revenue Assessment Regulation, 1801.	Ditto.
1805	XII	The Cuttack Land-revenue Regulation, 1805.	Ditto.
1812	V	The Bengal Land-revenue Sales Regulation, 1812.	Ditto.
1812	XVIII	The Bengal Leases and Land-revenue Regulation, 1812.	Ditto.
1814	XXIX	The Ghatwali Lands Regulation, 1814	The whole.
1816	V	The Bengal Kanungos Regulation, 1816	Ditto.
1817	XII	The Bengal Patwaris Regulation, 1817	So much as has not been repealed.
1819	I	The Bengal Kanungos and Patwaris Regulation, 1819.	Ditto.

of 1951.]

Year.	No.	Short title.	Extent of repeal.
1	2	3	4
1819	II	The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819.	So much as has not been repealed.
1819	VIII	The Bengal Patni Taluks Regulation, 1819.	Ditto.
1820	I	The Bengal Patni Taluks Regulation, 1820.	The whole.
1821	IV	The Bengal Land-revenue (Assistant Collectors) Regulation, 1821.	So much as has not been repealed.
1822	VII	The Bengal Land-revenue Settlement Regulation, 1822.	Ditto.
1825	IX	The Bengal Land-revenue Settlement Regulation, 1825.	Ditto.
1825	XIII	The Bengal Land-revenue Settlement (Resumed Kanungos and Revenue-free Land) Regulation, 1825.	The whole.
1825	XIV	The Bengal Revenue-free Land Regulation, 1825.	So much as has not been repealed.
1827	V	The Bengal Attached Estates Management Regulation, 1827.	The whole.
1828	III	The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828.	So much as has not been repealed.
1828	IV	The Bengal Land-revenue Settlement Regulation, 1828.	Ditto.
<i>Central Acts.</i>			
1848	XX	The Bengal Landholders' Attendance Act, 1848.	The whole.
1853	VI	The Rent Recovery Act, 1853 ..	So much as has not been repealed.
1859	V	The Bengal Ghatwali Lands Act, 1859	The whole.
1885	VIII	The Bengal Tenancy Act, 1885 ..	So much as has not been repealed.

Year.	No.	Short title.	Extent of repeal.
1	2	3	4
<i>Bengal Acts.</i>			
¹ [1859	XI	The Bengal Land-revenue and Sales Act, 1859.	The whole.]
1862	VII	The Bengal Land-revenue Resumption Act, 1862.	So much as has not been repealed.
1865	VIII	The Bengal Rent Recovery (Under-tenures) Act, 1865.	Ditto.
1868	III	The Bengal Land-revenue Settlement Act, 1868.	Ditto
¹ [1868	VII	The Bengal Land-revenue Sales Act, 1868.	The whole.
1876	VII	The Land Registration Act, 1876 ..	Ditto.]
1879	VIII	The Bengal Rent Settlement Act, 1879	Ditto.
1897	V	The Estates Partition Act, 1897 ..	Ditto.
1904	III	The Bengal Settled Estates Act, 1904 ..	Ditto.
<i>Assam Regulation.</i>			
1886	I	The Assam Land and Revenue Regulation, 1886.	The whole.
<i>Assam Act.</i>			
1936	XI	The Sylhet Tenancy Act, 1936 ..	The whole.

¹These entries were inserted by E. B. Ordinance III of 1956, section 21.

East Bengal Act No. XXX of 1951.

**THE BENGAL TOUTS (EXTENSION TO SYLHET)
ACT, 1951.¹**

[19th May, 1951.]

An Act to make provision of the suppression of touts in courts and certain offices in the district of Sylhet.

Bengal
Act V
of 1942.

WHEREAS it is expedient to make better provision for regulating the employment of clerks of Legal Practitioners and for the suppression of touts in courts and certain offices in the district of Sylhet and to that end to extend some of the provisions of the Bengal Touts Act, 1942, to the said district, in the manner hereinafter appearing;

It is hereby enacted as follows:—

1. (1) This Act may be called the Bengal Touts (Extension to Sylhet) Act, 1951.

Short title,
extent and
commence-
ment.

(2) It extends to the district of Sylhet.

(3) It shall come into force on such date² as the Provincial Government may, by notification in the *Official Gazette*, appoint.

2. All the provisions of the Bengal Touts Act, 1942, except those of sections 13, 14 and 15 shall apply to the district of Sylhet.

Application
of Bengal
Act V of
1942 to the
district of
Sylhet.

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 17th February, 1951, Pt. IVA, p. 144; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 22nd February and 1st March, 1951.

²The Act came into force on the 15th July, 1951, vide notification No. 3053J., dated the 14th July, 1951, published in the *Dacca Gazette*, dated the 26th July, 1951, Pt. I, p. 822.

East Bengal Act XXXIII of 1951.

THE EAST BENGAL TRANSFER OF AGRICULTURAL LAND ACT, 1951.¹

[23rd November, 1951.]

An Act to make provision for restricting the transfer of certain Agricultural lands in ²[East Pakistan].

WHEREAS it is expedient to make provisions for restricting the transfer of certain agricultural lands in ²[East Pakistan];

It is hereby enacted as follows:—

1. (1) This Act may be called the East Bengal Transfer of Agricultural Land Act, 1951. Short title, extent and commencement.
- (2) It extends to the whole of ²[East Pakistan].
- (3) It shall be deemed to have come into force on the 21st day of October, 1951.
2. In this Act, unless there is anything repugnant in the subject or context— Definitions.
 - (a) "agricultural lands" include all lands other than—
 - (i) lands which were, on the 14th day of December, 1948, used for purposes not connected with agriculture or horticulture or with the exercise of forest rights, and
 - (ii) lands held for the purpose of cultivation or manufacture of tea ;
 - (b) "Collector" means the Collector or Deputy Commissioner of a district and includes a Subdivisional Officer and such other officers not below the rank of a Deputy Collector as may be appointed by the Provincial Government to discharge all or any of the functions of a Collector under this Act ;

¹For Statement of Objects and Reasons, see the *Dacca Gazette Extraordinary*, dated the 15th July, 1949, Pt. IVA, p. 484 ; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 15th February, 1951, 19th, 20th, 22nd, 23rd and 24th October, 1951.

The Act was extended to those areas of the district of Mymensingh which were known as "Partially Excluded Areas" immediately before the coming into force of the Constitution which was abrogated by the Presidential Proclamation of the 7th October, 1958, vide notification No. 10778L.R., dated the 23rd November, 1951, published in the *Dacca Gazette*, dated the 6th December, 1951, Pt. I, p. 1287.

²The words within square brackets were substituted for the words "East Bengal" by E. P. Ord. XXVIII of 1960, First Schedule.

(Sections 3, 4.)

(c) "land" does not include houses or other buildings standing thereon ;

(d) "person" does not include an under-*raiyat* or the Government ;

(e) "transfer" means transfer by private sale, settlement, lease, sub-letting, gift, mortgage or any contract or agreement but does not include a complete usufructuary mortgage or a mortgage to a Land Mortgage Bank registered or deemed to be registered under the Bengal Co-operative Societies Act, 1940, or registered under the Co-operative Societies Act, 1912 ; and

Ben.
Act XXI
of 1940.
Act II of
1912.

(f) all words and expressions used but not defined in this Act and used in the Bengal Tenancy Act, 1885, the Sylhet Tenancy Act, 1936, or the Transfer of Property Act, 1882, have the same meanings as in those Acts, in the respective areas to which those Acts apply.

VIII of
1885.
Assam
Act XI of
1936.
IV of
1882.

Restriction
on transfer.

3. Except as provided in section 4, no person shall, after the fourteenth day of December, 1948, and for so long as this Act remains in force, transfer any quantity of agricultural land in his khas possession which exceeds, in the aggregate, ten standard bighas; and whenever the total quantity of such land transferred by such person after the said date amounts to ten standard bighas, he shall be debarred from transferring any more such land:

Provided that nothing in this section shall apply to the resettlement of agricultural lands purchased by a landlord in execution of a rent decree or to the resettlement of such lands surrendered or abandoned under the provisions of the Bengal Tenancy Act, 1885, or the Sylhet Tenancy Act, 1936.

VIII of
1885.
Assam
Act XI
of 1936.

Application
to the Col-
lector for
permitting
the transfer
of additional
lands.

4. (1) If a person desires to transfer any agricultural land in his khas possession in excess of the quantity specified in section 3, he shall apply to the Collector for an order permitting him to transfer such land, stating in the application the area and description of the land sought to be transferred and the purposes of such transfer.

(2) If, on an application under sub-section (1), the Collector, after making such enquiry and taking such evidence as he considers necessary, is satisfied that the applicant is in need of transferring the land mentioned in such application for *bona fide* purposes of meeting

(Sections 5—7.)

an urgent and unavoidable expenditure or obligation or for other reasonable purposes, he may make an order in writing permitting the applicant to transfer the land or such portion of it as would, in the opinion of the Collector, be sufficient to enable the applicant to meet such expenditure, obligation or purposes; and, if the Collector is not so satisfied, he shall reject the application.

(3) An order under sub-section (2) permitting an applicant to transfer any land shall contain the area and description of such land and the applicant shall be entitled to be furnished with a certified copy of such order free of cost.

(4) A person, who has obtained an order referred to in sub-section (3), shall be entitled to transfer the land in respect of which such order has been made.

5. Every transfer made in contravention of this Act shall be null and void to the extent of the land in excess of the areas permissible for transfer under section 3 and sub-section (2) of section 4, and no such transfer in respect of such excess areas shall be recognised as valid by any Court for any purpose whatsoever.

Transfer made in contravention of this Act to be invalid.

6. (1) If the Collector is satisfied after enquiry and after giving the person concerned an opportunity of being heard that such person has transferred any land in contravention of this Act, he may pass an order imposing a penalty not exceeding double the amount of the consideration money in respect of the lands transferred in excess of the areas permissible for transfer under section 3 and sub-section (2) of section 4, or may pass an order that the excess areas so transferred shall be forfeited to the State, or may pass an order imposing the penalty and also forfeiting the excess areas to the State.

Penalty.

(2) The penalty imposed under sub-section (1) shall be recoverable as an arrear of revenue under the Bengal Public Demands Recovery Act, 1913.

en. Act
II of
913.

(3) When the Collector has passed an order under sub-section (1) forfeiting any land to the State, the land shall vest in the Provincial Government and it shall be lawful for the Collector to enter into possession of the land.

(4) The Collector may take action under sub-section (1) either on an application supported by an affidavit filed by any person or on his own motion.

7. An appeal may be presented to the Board of Appeal. Revenue against any order passed by the Collector under sub-section (2) of section 4 or under section 6 within

[E. B. Act XXXIII of 1951.]

(Sections 8, 9.)

60 days from the date of the order of the Collector;
and the decision of the Board of Revenue on appeal
shall be final.

Savings as
to rights.

8. Nothing in this Act, shall be deemed to confer on
any person any right which he does not otherwise possess.

Repeal and
savings.

9. (1) The East Bengal Transfer of Agricultural Land
Ordinance, 1948, as continued in operation by the East
Bengal Ordinances Temporary Enactment and Re-enact-
ment Act, 1951, and as amended by the East Bengal
Transfer of Agricultural Land (Amendment) Ordinance,
1951, is hereby repealed.

E. B.
Ord. XXI *
of 1948.
E. B. Act
I of 1951.
E. B.
Ord. VII
of 1951.

(2) Any orders passed or appointments made or any-
thing done or any action taken or any proceedings com-
menced under any provision of the Ordinance so repealed
shall continue in force and be deemed to have been passed,
made, done, taken or commenced under the corresponding
provision of this Act, as if this Act had commenced on the
date of coming into force of that Ordinance.

East Bengal Act 1 of 1952.

THE EAST BENGAL SHOPS AND ESTABLISHMENTS
ACT, 1951.¹

[16th January, 1952.]

An Act to regulate the holidays, payment of wages, leave and hours of work of persons employed in shops, commercial establishments, industrial establishments not being factories, and establishments for public entertainment or amusement and to provide for investigation and settlement of disputes between them and their employers.

WHEREAS it is expedient to regulate the holidays, ment of wages, leave and hours of work of persons empl in shops, commercial establishments, industrial estal ments not being factories, and establishments for pame entertainment or amusement and to provide for investigation and settlement of disputes between them and their employers;

It is hereby enacted as follows :—

1. (1) This Act may be called the East Bengal Shops and Establishments Act, 1951.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of ²[East Pakistan].

(3) It shall come into force on such date³ as the Provincial Government may, by notification in the *Official Gazette*, appoint.

(4) It shall apply in the first instance to the municipalities of Dacca, Narayanganj, Chittagong, Chandpur, Rajshahi, Jessore and Mymensingh, as constituted under the Bengal Municipal Act, 1932, and to the municipality of Sylhet, as constituted under the Assam Municipal Act, 1923; and thereafter it shall apply to such other areas, or to such shops or establishments or classes of shops or establishments in such other areas, as the Provincial Government may specify by notification.

Ben Act XV
of 1932.
Assam Act I
of 1923.

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 5th July, 1950, Pt. IVA, p. 522; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 15th February, 17th February, 19th October and 5th, 6th and 11th November, 1951.

²The words within square brackets were substituted for the words "East Bengal" by E. P. Ord. XXVIII of 1960, First Schedule.

³The Act was brought into force with effect from 27th October, 1952 by notification No. 642 Lab., dated the 16th October, 1952 published in the *Dacca Gazette*, dated the 30th October, 1952, Pt. I, p. 1033.

(Section 2)

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

- (1) "closed" means not open for the service of any customer;
- (2) "commercial establishment" means an establishment in which there is conducted the business of advertising, commission, forwarding or commercial agency, a clerical department of a factory or of any industrial or commercial undertaking, an insurance company, joint stock company, bank, broker's office, or exchange, or such other establishment or class thereof as the Provincial Government may, by notification, declare to be a commercial establishment for the purposes of this Act;
- (3) "day" means a period of twenty-four hours beginning at midnight ;
- (4) "dispute" means any dispute or difference between a shop-keeper or employer and a person employed in his shop or establishment, which is connected with employment or non-employment, or terms of employment of any person; and for the purpose of this clause a person employed means and includes a person discharged during or in connection with the dispute ;
- (5) "employer" means a person owning or having charge of the business of a commercial or industrial establishment or establishment for public entertainment or amusement, and includes an agent or manager of, and any other person acting on behalf of, such person in the general management or control of such establishment ;
- (6) "establishment for public entertainment or amusement" means a restaurant, eating house, cafe, cinema, theatre, circus, *jattras* and such other establishment or class thereof as the Provincial Government may, by notification, declare to be, for the purpose of this Act, an establishment for public entertainment or amusement ;
- (7) "factory" means a factory as defined in, or declared to be a factory under, the Factories Act, 1934 ; XXV
of 1934.
- (8) "half day" means a period of six consecutive hours between the hours of half past eight o'clock *ante meridiem* and half past eight o'clock *post meridiem* ;

of 1952.]

(Section 2.)

XV
f 1934.

(9) "Industrial establishment" means a workshop or other establishment in which the work of making, altering, repairing, ornamenting, finishing or packing or otherwise treating any article or substance with a view to its use, sale, transport, delivery or disposal is carried on or where any service to a customer is rendered or class of establishment as the Provincial Government may, by notification, declare to be, for the purpose of this Act, an industrial establishment but does not include a factory as defined or declared under the Factories Act, 1934 ;

(10) "notification" means a notification published in the *Official Gazette* ;

(11) "person employed" means—

(i) in the case of a shop, a person wholly or principally employed in the shop in connection with the business of the shop ;

(ii) in the case of a commercial or industrial establishment, a person wholly or principally employed in connection with the business of the establishment or in the case of a factory, a member of the clerical staff employed in such factory ; and

(iii) in the case of an establishment for public entertainment or amusement, a person wholly or principally employed in the preparation or serving of food or drink, or in the attendance upon customers, or in cleaning any part of the establishment or the utensils used therein, or as attendant, cashier, clerk, door-keeper, operator or usher, or in some other similar capacity :

Provided that, "person employed" shall not include a shop-keeper or employer or the husband or wife or any minor relation of such shop-keeper or employer who lives with, and is dependent on, such shop-keeper or employer ;

(12) "premises" means a holding or any part thereof which is separated from and has no means of direct inter-communication with any other premises and where there is such means it is not used but kept entirely closed ;

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

(14) "rules" means the rules made under this Act ;

[E. B. Act I]

(Sections 3—5.)

- (15) "shop" means any premises used wholly or in part for the wholesale or retail sale of commodities or articles, either for cash or on credit, and such other premises as the Provincial Government may, by notification, declare to be a shop for the purposes of this Act ;
- (16) "shop-keeper" means a person owning or having charge of the business of a shop and includes an agent or manager of, and any other person acting on behalf of, such person in the general management or control of a shop ;
- (17) "week" means a period of seven days beginning at midnight on Friday ; and
- (18) "wages" means wages as defined in the Payment IV of
of Wages Act, 1936.

Reference to
time of day. 3. References to the time of day in this Act shall be deemed to be references to Pakistan standard time for ¹[East Pakistan].

Powers of
the Provin-
cial Govern-
ment. 4. The Provincial Government may, by notification, on account of such holiday or other occasion as may be prescribed, suspend the operation of all or any of the provisions of this Act in respect of any shop or establishment or class of shop or establishment for such period and subject to such conditions as it thinks fit.

Act not
applicable to
certain
establish-
ments, shops
and persons. 5. (1) Nothing in this Act shall apply to—

- (a) offices of or under the Central or Provincial Government, the ²[Railways], the State Bank of Pakistan, or any local authority;
- (b) any system of public conservancy or sanitation, any industry, business or undertaking which supplies power, light, or water to the public and such other public utility companies or associations or classes thereof as the Provincial Government may, by notification, exempt from the operation of this Act ;
- (c) clubs, hostels and messes not maintained for profit or gain ;
- (d) stalls and refreshment rooms at railway stations, steamer and launch stations, docks, wharves and airports, and on trains and steamers, or aircraft, so far as the sale of commodities is concerned ;
- (e) establishments for the treatment or care of the sick, infirm, destitute or mentally unfit ;

²The words within square brackets were substituted for the words "East Bengal" by E.P. Ord. XXVIII of 1960, First Schedule.

³The words within square brackets were substituted for the words "Federal Railways", *ibid*.

(Section 5.)

- (f) such shops or classes of shops, dealing mainly in vegetables, meat, fish, dairy produce, bread, pastries, sweetmeats, flowers or other perishable commodities, as the Provincial Government may, by notification, exempt from the operation of this Act, so far as the sale of these articles is concerned ;
 - (g) shops dealing mainly in medicines, surgical appliances, bandages or other medical requisites, so far as the sale of these articles is concerned ;
 - (h) shops dealing in articles required for funerals, burials or cremations, so far as the sale of these articles is concerned ;
 - (i) shops dealing in tobacco, cigars, cheroots, cigarettes, *biris*, *pan*, liquid refreshments sold retail for consumption on the premises, ice, newspapers or periodicals, so far as the sale of these articles is concerned ;
 - (j) shops or stalls in any public exhibition or show, so far as such shops or stalls deal in retail trade which is solely subsidiary or ancillary to the main purposes of such exhibition or show ;
 - (k) shops or stalls in any public fair or *bazar* held for religious or charitable purpose ;
 - (l) barbers' and hair dressers' shops, so far as service to customers is concerned ;
 - (m) shops dealing in petroleum products or spare parts for motor vehicles, so far as the sale of these articles is concerned ;
 - (n) any person employed as a manager, or as a travelling agent, canvasser, messenger, watchman or caretaker, or conservancy staff, or exclusively in connection with the collection, despatch, delivery, and conveyance or customs formalities of goods ; and
 - (o) such other establishments, shops or persons or classes of establishment, shops or persons, as the Provincial Government may, by notification, exempt from the operation of all or any of the provisions of this Act, subject to such conditions as it thinks fit.
- (2) Notwithstanding anything contained in sub-section (1), the Provincial Government may, by notification, declare

[E. B. Act I]

(Sections 6, 7.)

that any shop, establishment or person specified in that sub-section shall not be exempt from the operation of such provisions of this Act, as may be specified in the notification and the provisions of this Act specified in such notification shall apply to such shop, establishment or person.

Holidays in shops, commercial or industrial establishment or an establishment for public entertainment.

¹[6. (1) Every shop shall be entirely closed for at least one and half days in each week, and every person employed there in, or in any commercial or industrial establishment or an establishment for public entertainment or amusement, shall be allowed as holidays one and a half days in each week :

Provided that, when there are conducted in a shop or commercial or industrial establishment or an establishment for public entertainment or amusement two or more trades or business, any of which is of such character that, if it was the sole trade or business therein conducted, the provisions of this sub-section or sub-section (1) of section 7 would not apply to that shop or commercial or industrial establishment or an establishment for public entertainment or amusement, such shop or establishment shall, so far as the conduct of that business is concerned, be exempt from the operation of this sub-section.

(2) No deduction on account of any holiday allowed under sub-section (1) shall be made from the wages of any person employed in a shop, or commercial or industrial establishment or an establishment for public entertainment or amusement.

(3) The day and the half day on which a shop shall be entirely closed shall be consecutive days in each week to be fixed for each town by the Government :

Provided that Government may, from time to time, re-fix the days for each town in the public interest.]

Hours of work in shops, etc.

7. (1) No shop shall remain open after the hour of eight o'clock *post meridiem*; but any customer who was being, or was waiting in the shop to be served at such hour may be served during the period of thirty minutes immediately following such hour.

(2) No person employed in a shop or commercial or industrial establishment or an establishment for public entertainment or amusement shall be required or permitted to

¹ This section was substituted for the original section 6 by East Pakistan Act. XV of 1956, section 2.

(Sections 7, 8.)

work in such shop or commercial or industrial establishment or an establishment for public entertainment or amusement for more than nine hours in any one day and for more than ¹[forty eight hours] in any one week:

Provided that, in any day in any week, in which there occurs stock-taking, making-up account, settlement or such other business operation and during such other periods as may be prescribed, a person employed in a shop or commercial or industrial establishment or an establishment for public entertainment or amusement may be required or permitted to work overtime in such shop or commercial or an industrial establishment or an establishment for public entertainment or amusement, for more than nine hours in such day and for more than ¹[forty-eight hours] in such week, so that the total number of hours so worked overtime by such person does not exceed one hundred and twenty in any one year.

(3) No person employed in a shop or commercial or industrial establishment or an establishment for public entertainment or amusement shall be required or permitted to work in such shop or commercial or industrial establishment or an establishment for public entertainment or amusement—

(a) for more than seven hours in any one day, unless he has been allowed an interval for rest of at least one hour during that day, and

(b) for more than five hours in any one day, unless he has been allowed an interval for rest of at least half an hour during that day.

(4) The periods of work and intervals for rest of each person employed in a shop or a commercial or an industrial establishment or an establishment for public entertainment or amusement shall be arranged by the shop-keeper or employer so that together they do not extend in any case over more than twelve hours in any one day.

8. (1) All wages and other allowances payable to any person employed in a shop or commercial or industrial establishment or an establishment for public entertainment or amusement shall be payable not later than the tenth day of the month immediately succeeding that in respect of which such wages and other allowances are payable. Payment of wages.

¹ The words within square brackets were substituted for the words "fifty-one hours" by the East Bengal shops and Establishments (Amendment) Ordinance, 1959 (E. P. Ord. No. LVIII of 1959), section 3.

(Sections 9—11.)

(2) Notwithstanding anything contained in the payment of Wages Act, 1936, the provisions of that Act shall apply IV of 1936. to the payment of wages to persons employed in a shop or commercial or industrial establishment or an establishment for public entertainment or amusement as if the provisions of that Act have been enacted in this Act.

Leave.

9. A person employed in a shop, commercial or industrial establishment or an establishment for public entertainment or amusement shall be entitled—

- (a) after every twelve months' continuous employment, to privilege leave on full pay for a total period ¹[of] 14 days;
- (b) in every year to 10 days' casual leave on full pay; and
- (c) in every year, to sick leave on full pay ²[for a total period of] 14 days:

Provided that—

- (i) privilege leave admissible under clause (a) and sick leave admissible under clause (c) may be accumulated up to a maximum of not more than 28 days, and
- (ii) casual leave admissible under clause (b) shall not be accumulated.

Wages for overtime work.

10. When any person employed in any shop or commercial or industrial establishment or an establishment for public entertainment or amusement is required or permitted to work overtime in such shop or establishment as provided in the proviso to sub-section (2) of section 7, the wages payable to such person in respect of such overtime work shall be calculated at double the ordinary rate of wages payable to him, and such ordinary rate of wages shall be calculated in the manner prescribed.

No person shall be dismissed or discharged except on gross misconduct.

11. (1) No person employed in a shop or commercial or industrial establishment or an establishment for public entertainment or amusement shall be dismissed or discharged, unless for such gross misconduct as may be prescribed, without being given thirty days' notice in writing or thirty days' wages in lieu of notice if the person has been in service for six months or more:

¹ The word within square brackets was substituted for the words "not exceeding" by the East Bengal Shops and Establishments (Amendment) Ordinance, 1959 (E. P. Ord. No. LVIII of 1959), section 4.

² The words within square brackets were substituted for the words "not exceeding"; *ibid.*

of 1952.]

(Sections 12—15.)

Provided that compensation shall be paid at the rate of 2 weeks' wages per year of service to the discharged or dismissed persons who have been in service for three years or more unless the shop-keeper or employer has been contributing to any Provident or other fund for the benefit of the discharged or dismissed person concerned and which contributions are not forfeited on account of discharge or dismissal from service unless the discharge or dismissal is for gross misconduct.

(2) The wages in lieu of notice and compensation payable under sub-section (1) shall be deemed to be wages; and the provisions of the Act applicable to payment of wages shall be applicable also to its payment.

XIV of 1947. 12. A Labour Inspector appointed under section 15 may investigate a dispute reported to him for the purpose of inducing the parties to come to a fair and amicable settlement and may act as a Conciliation Officer in respect of disputes in a shop or establishment employing not more than 20 persons in the manner provided in the Industrial Disputes Act, 1947, and rules framed thereunder as if the said provisions have been enacted in this Act or prescribed under it.

A Labour Inspector may investigate into a dispute.

13. (1) No person below the age of 12 years shall be employed in a shop or commercial or industrial establishment or an establishment for a public entertainment or amusement:

Minimum age for employment.

Provided that no person below the age of 15 years shall be in employment more than six hours in any one day:

Provided further that no person under the age of 15 years shall be employed after 8-30 p. m.

(2) A Labour Inspector may require a shop-keeper or employer to produce such certificate of age as may be prescribed.

14. Every shop-keeper and employer shall, for the purposes of this Act, maintain such records and registers, and furnish such information, as may be prescribed.

Maintenance of records, registers and notices.

15. (1) The Provincial Government may, by notification, appoint such persons or such class of persons as it thinks fit to be Labour Inspector for the purposes of this Act, within such local limits as it may assign to them respectively.

Labour Inspectors.

XLV of 1860. (2) All Labour Inspectors appointed under sub-section (1) shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code.

[E. B. Act I*(Sections 16, 17.)*

(3) All Labour Inspectors appointed under sub-section (1), within the local limits which may be assigned to them, shall be deemed to be appointed as Inspectors under sub-section (3) of section 14 of the Payment of Wages Act, 1936, to exercise all the functions and powers under that Act in respect of payment of wages to persons employed in a shop, or commercial or industrial establishment or an establishment for public entertainment or amusement in the same manner as if the provisions of the said Act have been enacted in this Act and made applicable to the payment of wages to person employed in a shop or commercial or industrial establishment or an establishment for public entertainment or amusement. IV
1936.

(4) All Labour Inspectors appointed under sub-section (1), within the local limits which may be assigned to them and in respect of disputes in shops and establishments not employing more than 20 persons, shall exercise all the functions and powers of a Conciliation Officer under the Industrial Disputes Act, 1947, in the same manner as if the provisions of the said Act have been enacted in this Act and made applicable to disputes in shops, or commercial or industrial establishment or an establishment for public entertainment or amusement. XIV
1947.

Power
Labour
Inspector.

16. Subject to the rules, a Labour Inspector appointed under section 15 may, for the purpose of this Act and within the local limits for which he is appointed, at all reasonable times enter into any place which is, or which he has reason to believe is, a shop or a commercial or industrial establishment or an establishment for public entertainment or amusement, with such assistants, if any, being servants of the Provincial Government, and make such examination of that place or of any prescribed record, register or other documents maintained therein, as may be prescribed, and may require such explanation of any prescribed record, register or other documents as he may consider necessary for the purposes of this Act:

Provided that no person shall be required under this section to answer any question or give any evidence tending to incriminate himself.

Penalties.

17. (1) Whoever contravenes any of the provisions of sections 6, 7, 11 or 13 shall, on conviction, be punishable with fine which, for a first offence, may extend to two hundred and fifty rupees and for a second or any subsequent offence, may extend to five hundred rupees, in default to undergo simple imprisonment which may extend to three months.

of 1952.]

(Sections 18—22.)

(2) Whoever contravenes any of the provisions of sections 8, 9, 10 or 14 and whoever having custody of any prescribed record, register or notice, refuses or, without sufficient cause, fails to produce it on being so required by a Labour Inspector under the provisions of section 16, shall, on conviction, be punishable with fine which may extend to two hundred rupees.

18. (1) No court shall take cognizance of an offence punishable under this Act except upon complaint made by a Labour Inspector appointed under section 15. Procedure.

(2) No court inferior to that of a Magistrate of the First Class shall try an offence punishable under this Act.

19. No suit, prosecution or legal proceedings whatever shall lie against any person in respect of anything in good faith done or intended to be done under this Act or the rules. Indemnity.

20. Nothing in this Act shall affect any right or privilege to which any person employed in any shop, commercial or industrial establishment or an establishment for public entertainment or amusement is entitled at the date of the commencement of this Act under any other law for the time being in force or under any contract, custom or usage which is in force on that date, if such right or privilege is more favourable to him than any right or privilege conferred upon him by this Act. Saving of certain rights and privileges.

Ben. Act XVI of 1940. 21. (1) The Bengal Shops and Establishments Act, 1940, is hereby repealed. Repeal and saving.

(2) Any orders passed, any action taken, any proceedings commenced or anything done under any provisions of the said Act shall continue in force and be deemed to have been passed, taken, commenced or done under the corresponding provisions of this Act.

22. (1) The Provincial Government may, after previous publication, make rules for carrying out the purposes of this Act. Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the holidays and other occasions on account of which a notification may be issued under section 4;
- (b) the business operations in connection with which, and the periods during which, persons employed in shops and establishments may work overtime or in excess of the limit provided respectively in sub-section (2) of section 7;

[E. B. Act I of 1952.]

(Section 22.)

- (c) the manner of calculating ordinary rates of wages for purposes of section 10;
- (d) the classification of acts as gross misconduct under sub-section (1) of section 11;
- (e) the certificate of age to be produced under sub-section (2) of section 13;
- (f) the records and registers to be maintained, and the information to be furnished by a shop-keeper and an employer under section 14;
- (g) the manner of appointment and qualifications of Labour Inspectors appointed under section 15; and
- (h) the manner in which Labour Inspectors appointed under section 15 shall exercise the power conferred by section 16.

(3) In making any rule under this section the Provincial Government may direct that any person committing a breach thereof, shall, on conviction, be punishable with fine, which may extend to fifty rupees, and where the breach is a continuing one, with a further fine which may extend to ten rupees for every day, after the first, during which the breach continues.

East Bengal Act II of 1952.

THE COMPULSORY PRIMARY EDUCATION (SYLHET)
ACT, 1951.¹

[6th September, 1952.]

An Act to make better provision for introducing, under the direct administration of the Provincial Government, compulsory primary education in the district of Sylhet.

WHEREAS it is expedient to make better provision for introducing, under the direct administration of the Provincial Government, compulsory primary education in the district of Sylhet ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Compulsory Primary Education (Sylhet) Act, 1951.

Short title,
extent and
commence-
ment.

Assam
Act I
of 1923.

East Ben.
Ord. No.
XVII of
1951.

(2) It extends to the whole of the district of Sylhet, except the areas within the municipalities constituted under the Assam Municipal Act, 1923.

(3) It shall come into force on the date on which the Compulsory Primary Education (Sylhet) Ordinance, 1951, ceases to operate.

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

Definition.

(1) “attendance”, with its grammatical variations and cognate expressions, means presence for receiving instruction at a primary school within a Primary Education Circle for so many and on such days in a year and at such time or times on each day of attendance as may be prescribed ;

(2) “child” means a male child who is not less than six and not more than eleven years of age or other prescribed age ;

(3) “guardian” means any person to whom the care nurture or custody of any child falls by law or by natural right or recognised usage, or who has accepted or assumed the care, nurture or

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 20th October, 1951, Pt. IVA, p. 1503; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 8th, 10th and 12th November, 1951.

[E. B. Act II]**(Sections 3—6.)**

custody of any child or to whom the care or custody of any child has been entrusted by any lawful authority ;

- (4) “notification” means a notification published in the *Official Gazette* ;
- (5) “panchayat” means a panchayat appointed under the Village Chaukidari Act, 1870 ; Ben. Act VI of 1870.
- (6) “prescribed” means prescribed by rules made under this Act ;
- (7) “Primary Education Circle” means any village or a group of villages or other areas constituting a Primary Education Circle under section 3 ;
- (8) “primary education” means education in such subjects and up to such standards as may be prescribed ;
- (9) “primary school” means a school or department of a school giving instruction in primary education ;
- (10) “village” has the same meaning as in the Village Chaukidari Act, 1870 ; and Ben. Act VI of 1870.
- (11) any reference to the Village Chaukidari Act, 1870, shall mean the Village Chaukidari Act, 1870, as in force in the district of Sylhet. Ben. Act VI of 1870.

Constitution of Primary Education Circle and compulsory primary education therein.

3. The Provincial Government may, by notification, declare that any village or a group of villages or other areas shall constitute a Primary Education Circle and that primary education to children within such Circle shall be compulsory.

No fees to be charged.

4. No fee shall be charged by any primary school in any Primary Education Circle from any child attending such school for instruction in primary education.

Exemptions.

5. The Provincial Government may, by notification, exempt from the operation of section 6, section 9 and section 10 any person or class of persons residing in any Primary Education Circle.

Responsibility of guardians.

6. In any Primary Education Circle, the guardian of every child resident in such circle shall, subject to the exceptions specified in section 7, cause such child to attend a primary school.

(Sections 7—9.)

7. Attendance at a primary school shall not be compulsory on a child if—

Conditions
exempting
from
attendance.

- (1) there is no primary school within two miles, or such less distance as may be specified by general or special order of the Deputy Inspector of Schools in this behalf, from the residence of the child ;
- (2) the child is under eight years of age and there is no primary school within one mile from the residence of the child ;
- (3) the child is prevented from attending the school by sickness, infirmity or other cause declared by a resolution of the panchayat concerned to be reasonable excuse for non-attendance ;
- (4) the child is receiving instruction in some other manner approved by the Deputy Inspector of Schools ;
- (5) the child has already received instruction in a primary school or otherwise to the satisfaction of the Deputy Inspector of Schools ; or
- (6) the Deputy Inspector of Schools has declared that, owing to agricultural operations, children residing in the area under the authority of any panchayat shall be exempt from attendance at a primary school for a period to be specified in the declaration.

8. The panchayat concerned shall be responsible for the enforcement of the provisions of section 6, section 9 and section 10 and, subject to the prescribed conditions, shall appoint one or more Attendance Committees for this purpose.

Attendance
Committees.

9. (1) If an Attendance Committee is satisfied that a guardian has, without reasonable excuse and after receiving a written caution from the Attendance Committee, failed to comply with the provisions of section 6, it shall send a written complaint against the guardian to a Magistrate having jurisdiction.

Default by
guardian.

(2) The Magistrate, if satisfied that the complaint is well-founded, shall direct the guardian to cause the child, in respect of whom the complaint was preferred, to attend a primary school regularly from a date to be specified in such direction.

(Sections 10—13.)

Penalty for default.

10. (1) If an Attendance Committee is satisfied that a guardian has without reasonable excuse failed to comply with a direction issued to him under sub-section (2) of section 9, it shall sanction his prosecution, and, on conviction by a Magistrate, such guardian shall be liable to a fine which may extend to five rupees.

(2) Any person, who has on two or more previous occasions been convicted of an offence under this section, shall, on further conviction for such offence, be liable to a fine which may extend to fifty rupees.

Levy and collection of surcharge.

11. (1) For the purpose of this Act, there shall be levied and collected from every person in a Primary Education Circle, as notified under section 3, who is assessed to rate under the Village Chaukidari Act, 1870, an additional amount by way of surcharge at such rate as may be determined by the Provincial Government :

Ben. Act VI of 1870.

Provided that, the amount of such surcharge levied on any one person in a Primary Education Circle in any year shall not exceed the amount payable by such person in such year as rate under the said Act.

(2) The provisions of the Village Chaukidari Act, 1870, shall apply, as far as possible, to the levy, payment and recovery of the surcharge, as if it were a chaukidari rate under the said Act.

Ben. Act VI of 1870.

(3) The panchayat concerned shall credit the amount of surcharge collected under this section to the Primary Education Circle Fund, after deducting a sum not exceeding ten *per centum* thereof to defray the cost of collection.

Explanation.—In this section, “year” means Bengali year commencing on the first day of Baisakh.

Fund.

12. There shall be formed for each Primary Education Circle a fund to be called “Primary Education Circle Fund” to which shall be credited—

(i) the amount of surcharge collected under section 11 and

(ii) all contributions and donations as may be made by any person.

Vesting and application of the Fund.

13. The Primary Education Circle Fund shall vest in and be administered by such authority as may be appointed by notification by the Provincial Government. Such Fund shall be applied to the payment of expenses of maintenance of buildings and equipments of the primary schools concerned and to the payment of establishment charges of the connected Attendance Committee or Committees.

of 1952.]

(Sections 14—18.)

Ben. Act
VI of
1870.
Assam
Act VII
of 1926.

14. The powers conferred and duties imposed on a panchayat by this Act shall, in the case of transfer of the panchayat's powers and duties under the Village Chaukidari Act, 1870, to a village authority under the provision of section 22 of the Assam Rural Self-Government Act, 1926, be exercised or performed by such village authority.

Transfer of
powers and
duties of
panchayat.

15. If any female child, who is not less than six and not more than eleven years of age or other prescribed age, voluntarily attends any primary school in any Primary Education Circle, no fee shall be charged from her, and she shall be given all reasonable facilities for instruction at such school.

Facilities for
female child.

16. The Assam Primary Education Act, 1926, and the provisions of the Assam Local Self-Government Act, 1915, as respects primary education, shall not apply to any Primary Education Circle constituted under section 3.

Exclusion of
the operation
of
Assam Act
V of 1926
and Assam
Act I of
1915.

17. The Provincial Government may make rules for carrying out the purposes of this Act.

Rule-making
power.

18. Any notification issued or anything done or any action taken or any orders passed or appointments made or any proceedings commenced in exercise of any power conferred by or under the Compulsory Primary Education (Sylhet) Ordinance, 1951, shall, on the said Ordinance ceasing to operate, continue in force and be deemed to have been issued, done, taken, passed, made or commenced, as the case may be, under the corresponding provision of this Act, as if this Act had commenced on the date of coming into force of that Ordinance.

Saving.

East Ben.
Ord. No.
XVII of
1951.

East Bengal Act IV of 1952.

THE BENGAL ALLUVIAL LANDS (EAST BENGAL
AMENDMENT) ACT, 1952¹.

[29th October, 1952.]

*An Act further to amend the Bengal Alluvial Lands
Act, 1920.*

Whereas it is expedient further to amend the Bengal Alluvial Lands Act, 1920, in the manner hereinafter appearing; Ben. Act
V of
1920.

It is hereby enacted as follows:—

Short title
and com-
mencement.

1. (1) This Act may be called the Bengal Alluvial Lands (East Bengal Amendment) Act, 1952.

(2) It shall be deemed to have come into force on the 1st April, 1951.

2 to 7. [Repealed by the East Pakistan Repealing and Amending Ordinance, 1960 (E. P. Ord. XXVIII of 1960)].

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated 13th September, 1952, p.1634; for proceedings in the Assembly, see the proceedings of the meeting of the East Bengal Legislative Assembly held on the 13th October, 1952.

East Bengal Act V of 1952.

THE EAST BENGAL PREVENTION OF TRANSFER OF
PROPERTY AND REMOVAL OF DOCUMENTS
AND RECORDS ACT, 1952.¹

[30th October, 1952.]

An Act to provide against certain difficulties in the way of speedy acquisition of interest in land under the East Bengal State Acquisition and Tenancy Act, 1950.

East Ben.
Act No.
XXVIII
of 1951.

WHEREAS it is expedient to provide against certain difficulties created or sought to be created by certain classes of persons in the way of speedy acquisition of estates, *taluks*, tenures and other interests in land, under the provisions of the East Bengal State Acquisition and Tenancy Act, 1950 ;

East Ben.
Act No.
XXVIII
of 1951.

It is hereby enacted as follows :—

1. (1) This Act may be called the East Bengal Prevention of Transfer of Property and Removal of Documents and Records Act, 1952.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of ²[East Pakistan].

(3) It shall be deemed to have come into force on the 21st day of July, 1951.

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

Definitions.

(a) “Collector” means the Collector of a district and includes a Subdivisional Officer and such other officers not below the rank of a Deputy Collector as may be appointed by the Provincial Government to discharge all or any of the functions of a Collector under this Act ;

(b) “*cutchery* building” means a building or part of a building which, on the 16th May, 1951, or thereafter, was or is used primarily as office or *cutchery*

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 21st September, 1951, Pt. IVA, p. 1160 ; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 6th, 14th and 15th October, 1952.

The Act was extended to those areas of the district of Mymensingh which were known as “Partially Excluded Areas” immediately before the coming into force of the Constitution which was abrogated by the Presidential Proclamation of the 7th October, 1958, vide notification No. 10276L.R., dated the 30th October, 1952, published in the *Dacca Gazette, Extraordinary*, dated the 30th October, 1952, Pt. I, p. 1893(a).

²The words within square brackets were substituted for the words “East Bengal” by E. P. Ord. XXVIII of 1960, First Schedule.

[E. B. Act V

(Sections 3—5.)

for the management including collection of rents and cesses of any estate, *taluk*, or tenure or as the residence of staff employed in such management, with the land under it and necessary adjuncts thereto ;

- (c) “transfer” means transfer by private sale, exchange, lease, gift, mortgage or charge; and
- (d) all other words and expressions used in this Act and in the East Bengal State Acquisition and Tenancy Act, 1950, shall have the same meanings as in that Act.

East Ben.
Act No.
XXVIII
of 1951.

Prohibition
against trans-
fer of *cut-
chery* build-
ings and
certain lands
contiguous
hereto.

3. (1) Notwithstanding anything contained in any other law for the time being in force or in any contract, no person shall transfer, without the previous permission of the Collector in writing,—

- (i) any *cutchery* building ; or
- (ii) any land contiguous to any *cutchery* building which, on the 16th May, 1951, lay vacant and was not used for agricultural purposes; or
- (iii) any vacant land situated within any *hat* or *bazar*.

(2) Every transfer made in contravention of sub-section (1) shall be null and void.

Provision
regarding
transfers
made be-
tween the
16th May,
1951, and
the 21st day
of July, 1951.

4. (1) Any *cutchery* building or land as is referred to in sub-section (1) of section 3, if transferred by any person between the 16th day of May, 1951, and the 21st day of July, 1951, shall, notwithstanding anything contained in any other law for the time being in force or in any contract, be deemed to have been re-transferred to such person on the 21st day of July, 1951.

(2) The transferor in respect of such transfer shall be liable to refund to the transferee or his successor-in-interest, the consideration of such transfer ; and the amount or value of such consideration shall, on an application of the transferee or his successor-in-interest to the Collector within two years from the 21st day of July, 1951, be recoverable from such transferor as a public demand.

Safeguards
against
removal of
records.

5. (1) No rent-receiver shall, after the coming into force of this Act, remove or cause to be removed any document or record relating to any estate, *taluk*, or tenure, to any place outside the Province of ¹[East Pakistan], or destroy or cause to be destroyed such document or record.

¹The words within square brackets were substituted for the words “East Bengal” by E. P. Ord. XXVIII of 1960, First Schedule.

of 1952.]

(Section 6.)

(2) If any document or record as aforesaid has been removed by any rent-receiver before the commencement of this Act to any place outside the Province of ¹[East Pakistan], the Collector may serve an order on such rent-receiver directing him to bring back such document or record to the Province of ¹[East Pakistan] within the time specified in such order.

(3) For the purpose of inspection of any document or record relating to any estate, *taluk*, or tenure, it shall be lawful for the Collector or any officer authorised by him in writing, to enter into or upon any *cutchery* building or premises, where the Collector or such officer has reason to believe that such document or record has been kept :

Provided that no such entry shall be made between sunset and sunrise and without giving two hours' notice to the rent-receiver concerned of his intention to do so.

(4) Before entering into or upon any *cutchery* building or premises under the provisions of sub-section (3), the Collector or any officer authorised by him may issue a direction upon the rent-receiver to inform him in writing, within the time specified in such direction, the place where such document or record has been kept.

6. (1) If any person has transferred any *cutchery* building or land in contravention of sub-section (1) of section 3, the Collector may impose on him a fine which may extend to twice the value or amount of the consideration for such transfer and may also pass an order forfeiting such *Cutchery* building or land to the Provincial Government. Penalty.

(2) If any rent-receiver has removed or destroyed or caused to be removed or destroyed any document or record in contravention of sub-section (1) of section 5, or fails to comply with an order under sub-section (2) of that section, the Collector may impose on him a fine which may extend to ten thousand rupees.

(3) The fine imposed under this section shall be recoverable as a public demand.

(4) When the Collector has passed an order under sub-section (1) forfeiting any *cutchery* building or land to the Provincial Government, it shall be lawful for him to take actual possession thereof, and in doing so, he may use or cause to be used such force as may be necessary.

¹The words within square brackets were substituted for the word "East Bengal" by E. P. Ord. XXVIII of 1960, First Schedule,

[E. B. Act V of 1952.]

(Sections 7—11.)

Appeal and revision.

7. (1) An appeal against any order passed by the Collector under sub-section (1) or sub-section (2) of section 6, if presented within thirty days from the date of the order appealed against, shall lie to the Commissioner of Division.

(2) If no appeal has been preferred under sub-section (1), the Board of Revenue may, of its own motion, revise any order passed by the Collector under sub-section (1) or sub-section (2) of section 6. The Board of Revenue may also, of its own motion or on application of the aggrieved person made within thirty days from the date of the order, revise any order passed by the Commissioner of the Division on appeal under sub-section (1).

(3) An order of the Board of Revenue passed under sub-section (2) shall be final.

Public servant.

8. Any person empowered to perform any function under this Act shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code. Act XLV of 1860.

Indemnity.

9. (1) No suit or legal proceeding shall lie against the Provincial Government in respect of anything which is, in good faith, done or intended to be done under this Act.

(2) No suit, prosecution or legal proceeding shall lie against any person in respect of anything which is, in good faith, done or intended to be done under this Act.

Repeal and saving.

10. (1) The East Bengal Expiring Laws Act, 1951, in so far as it relates to the East Bengal Prevention of Transfer of Property and Removal of Documents and Records Ordinance, 1951, is hereby repealed. East Ben. Act No. XXXVIII of 1951.
East Ben. Ord. No XIV of 1951.

(2) Any rules, orders or appointments made or anything done or any action taken or any proceedings commenced under any provision of the said Ordinance shall continue in force and be deemed to have been made, done, taken or commenced, as the case may be, under the corresponding provision of this Act.

Power to make rules.

11. The Provincial Government may make rules for carrying out the purposes of this Act.

East Bengal Act IX of 1952.

THE EAST BENGAL SERVICE TENANTS (PROTECTION) ACT, 1952.¹

[5th November, 1952.]

An Act to make provisions for the protection of service tenants from ejectment.

WHEREAS it is expedient to make provisions for the protection of service tenants from ejectment ;

It is hereby enacted as follows :—

1. (1) This Act may be called the East Bengal Service Tenants (Protection) Act, 1952. Short title and extent.

(2) It extends to the whole of ²[East Pakistan].

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

Act X of
1887.

(a) "Civil Court" means a Civil Court within the meaning of the East Bengal Civil Courts Act, and includes any Court exercising appellate or revisional jurisdiction over any such Court ;

(b) "service tenant" means a person who holds land under another person for agricultural or horticultural purpose or for the purpose of residence, free of rent, in consideration of some service to be rendered by him to that person, under the system usually known as *Nankar*, *Chakran* or the like.

3. Notwithstanding anything contained in any other law for the time being in force, no Civil Court shall, after the coming into force of this Act, entertain any application for execution of a decree for ejectment of a service tenant or other proceedings relating thereto, and such application Bar to suits and proceedings and abatement thereof.

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 16th February, 1952, Pt. IVA, p. 288 ; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 6th and 20th October, 1952.

The Act was extended to those areas of the district of Mymensingh which were known as "Partially Excluded Areas" immediately before the coming into force of the Constitution which was abrogated by the Presidential Proclamation of the 7th October, 1958, vide notification No. 10441-L.R., dated the 5th November, 1952 published in the *Dacca Gazette, Extraordinary*, dated the 5th November, 1952, Pt. I, p. 1915.

²The words within square brackets were substituted for the words "East Bengal" by E. P. Ord. XXVIII of 1960, First Schedule.

(Sections 4, 5.)

or proceedings as also any suit for ejectment of such tenant, if pending before a Civil Court, shall not be further proceeded with and shall abate.

Explanation.—For the purpose of this section, “suit” includes appeal.

Application
of Chapter
III of the
E. B. Act
XXVIII of
1951.

4. (1) The provisions of Chapter III of the East Bengal State Acquisition and Tenancy Act, 1950, shall, so far as may be, apply to the lands held by service tenants in respect of which suits and proceedings are barred under section 3.

(2) For the purpose of sub-section (1), the expression “within six months from the date of commencement of this Act”, occurring in sub-section (1) of section 12 of the said Act, shall be deemed to have been substituted by the expression “within three months from the date of commencement of the East Bengal Service Tenants (Protection) Act, 1952”.

Repeal
and
saving.

5. (1) The East Bengal Service Tenants (Protection) Ordinance, 1952, is hereby repealed.

East
Bengal
Ord.
No. 1
of 1952.

(2) Any orders passed, any action taken, anything done or any proceedings commenced under any provision of the said Ordinance shall continue in force and be deemed to have been passed, taken, done or commenced, as the case may be, under the corresponding provision of this Act, as if this Act had come into force on the date of coming into force of that Ordinance.

East Bengal Act X of 1952.

THE COURT OF WARDS (EAST BENGAL AMENDMENT) ACT, 1952¹.

[5th November, 1952.]

Ben. Act IX of 1879. *An Act further to amend the Court of Wards Act, 1879.*

Ben. Act IX of 1879. Whereas it is expedient further to amend the Court of Wards Act, 1879, for the purpose and in the manner hereinafter appearing;

It is hereby enacted as follows :—

1. (1) This Act may be called the Court of Wards (East Bengal Amendment) Act, 1952. Short title and commencement.

(2) It shall be deemed to have come into force on the 1st day of April, 1952.

2 and 3. [Repealed by the East Pakistan Repealing and Amending Ordinance, 1960 (E. P. Ord. XXVIII of 1960)].

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated 13th September, 1952, page 1636; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on 6th and 20th October, 1952.

East Bengal Act XI of 1952.

THE SYLHET TENANCY (AMENDMENT) ACT, 1952.¹

[11th November, 1952.]

An Act further to amend the Sylhet Tenancy Act, 1936.

Assam
Act XI
of 1936.

WHEREAS it is expedient further to amend the Sylhet Tenancy Act, 1936, for the purposes and in the manner herein-after appearing ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Sylhet Tenancy (Amendment) Act, 1952.

Short title
and com-
mencement.

(2) It shall be deemed to have come into force on the first day of June, 1950.

2 to 10. [Repealed by the East Pakistan Repealing and Amending Ordinance, 1960 (E. P. Ord. XXVIII of 1960)].

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 16th February, 1952, Pt. IVA, p. 292; for proceedings in the Assembly, see the proceedings of the meeting of the East Bengal Legislative Assembly held on the 21st February, 1952.

East Bengal Act XIII of 1952.

THE EAST BENGAL PROHIBITION OF SMOKING IN
SHOW HOUSES ACT, 1952.¹

[12th November, 1952.]

An Act to prohibit smoking in show houses in ²[East Pakistan].

WHEREAS it is expedient to prohibit smoking in show houses in ²[East Pakistan];

It is hereby enacted as follows:—

1. (1) This Act may be called the East Bengal Prohibition of Smoking in Show Houses Act, 1952. Short title,
extent and
commence-
ment.

(2) It extends to the whole of ²[East Pakistan.]

(3) It shall come into force on such date³ and at such places as the Provincial Government may, by notification in the *Official Gazette*, specify.

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

(a) “show house” means any building, tent, or any roofed and enclosed structure, used ordinarily or occasionally for the demonstration or exhibition to the public, whether on payment or otherwise, of cinematographic films, dramatical or musical performances, dances, physical feats of human beings or animals, conjuring tricks or sleights of hand, any indoor game or any other

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 23rd September, 1952, Pt. IVA, p. 1684; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on 14th and 29th October, 1952.

The Act was extended to the excluded areas of Chittagong Hill-tracts and those areas of Mymensingh district which were known as “Partially Excluded Areas” immediately before the coming into force of the Constitution which was abrogated by the Presidential Proclamation of the 7th October, 1958, vide notification No. 197 Dev., dated the 19th May, 1953 published in the *Dacca Gazette*, dated the 28th May, 1953, Pt. I, P. 427.

²The words within square brackets were substituted for the words “East Bengal” by E. P. Ord. XXVIII of 1960, First Schedule.

³The Act came into force with effect from the 1st February, 1953, vide notification No. 37Dev., dated the 27th January, 1953, published in the *Dacca Gazette*, dated the 29th January, 1953, Pt. I, P. 61.

334 *The East Bengal Prohibition of Smoking in Show Houses Act, 1952.*

[E. B. Act XIII of 1952.]

(Sections 3—7.)

indoor amusement whatsoever, but does not include such building, tent or structure wherein meals are served by the management along with the demonstration or exhibition, or which is used for any purposes other than those hereinbefore mentioned;

- (b) “the management” means the person or persons responsible for managing a demonstration or exhibition in a show house.

Penalty for smoking in show houses.

3. Whoever smokes, during a demonstration or exhibition, in any part of a show house reserved for the audience or the spectators, shall be punishable with fine which for a first offence may extend to twenty-five rupees and for a second or subsequent offence to one hundred rupees.

Explanation.—For the purpose of this section, a demonstration or exhibition shall be deemed to commence when the audience or the spectators or any part of them have entered the show house to witness a performance therein and to continue until they have left the house after the final closing of the performance.

Power to arrest without warrant.

4. Any police officer not below the rank of Sub-Inspector may arrest without warrant any person committing an offence under section 3 in his presence.

Management to post notices or exhibit slides.

5. (1) The management shall bring to the notice of the audience or the spectators, by posting notices prominently or by exhibiting slides, that any person smoking during a demonstration or exhibition, in any part of a show house reserved for the audience or spectators, shall be liable to arrest without warrant and to fine.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to fifty rupees.

Power to exempt.

6. The Provincial Government or any officer of the Provincial Government authorised in this behalf, may, by general or special order in writing, direct that the provisions of this Act shall not apply in respect of any show house or any demonstration or exhibition therein.

Power to make rules.

7. The Provincial Government may make rules for carrying out the purposes of this Act.

East Bengal Act XV of 1952.

THE EAST BENGAL UNDESIRABLE ADVERTISEMENTS CONTROL ACT, 1952.¹

[22nd November, 1952.]

An Act to control the publication of advertisements relating to the medical treatment of certain diseases and disorders.

WHEREAS it is expedient to control the publication of advertisements relating to the medical treatment of certain diseases and disorders;

It is hereby enacted as follows:—

1. (1) This Act may be called the East Bengal Undesirable Advertisements Control Act, 1952. Short title, extent and commencement.

(2) It extends to the whole of ²[East Pakistan].

(3) It shall come into force on such date³ as the Provincial Government may, by notification in the *Official Gazette*, appoint.

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

(1) “advertisement” includes any notice, sign, visible representation, announcement, bill, hand-bill, circular or pamphlet, whether pictorial or otherwise;

(2) “prescribed” means prescribed by rules made under this Act;

(3) “sexual disorder” means any ailment, irregularity, affection or diseased condition of the organs of generation;

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 20th September, 1952, Pt. IVA, p. 1680; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 14th, 29th and 30th October, 1952.

The Act was extended to the excluded areas of Chittagong Hill-tracts and those areas of Mymensingh district which were known as “Partially Excluded Areas” immediately before the coming into force of the Constitution which was abrogated by the Presidential Proclamation of the 7th October, 1958, *vide* notification No. 347Dev., dated the 13th September, 1954, published in the *Dacca Gazette*, dated the 23rd September, 1954, Pt. I, p. 1027.

²The words within square brackets were substituted for the words “East Bengal” by E. P. Ord. XXVIII of 1960, First Schedule.

³The Act came into force with effect from 1st March, 1953 *vide* notification No. 67Dev., dated the 21st February, 1953 published in the *Dacca Gazette*, dated the 26th February, 1953, Part I, p. 124.

(Sections 3, 4.)

- (4) "venereal disease" means syphilis, gonorrhoea or soft chancre or any sign, symptom or sequela of such disease, and includes such other venereal diseases as may be prescribed by the Provincial Government in this behalf.

Prohibition
of issue of
certain
advertisements.

3. (1) No person shall, by means of any advertisement, treat, or offer to treat, any person for, or advertise the treatment of, any venereal disease, sexual disorder, irregularity of menstruation or any other prescribed disease, infirmity or abnormality, or offer to prescribe any remedy therefor, or give or offer to give any advice in connection with the treatment thereof.

(2) No person shall print or publish, or cause to be printed or published, for distribution to the public, or circulate or cause to be circulated, to the public or to any person,—

(a) any advertisement, or

(b) any label or set of instructions, whether pictorial or otherwise, to be affixed to, or delivered with, any packet, box, bottle or phial

if such advertisement, label or set of instructions recommends, asserts or infers that any remedy, medicine, medicinal or herbal preparation or any appliance or charm of any kind, whether for use internally or externally, is a cure, or is useful or may be used, for the prevention, treatment or relief of any venereal disease, sexual disorder, irregularity of menstruation or any other prescribed disease, infirmity or abnormality.

Confiscation of newspapers, periodicals, etc., containing advertisement, etc., which contravenes section 3.

4. (1) Any person prescribed under sub-section (2), who may be authorised in writing in this behalf by the District Magistrate, may at any time seize and detain any newspaper, periodical, pamphlet, hand-bill, or other document or any other article or thing which, such person has reason to believe, contains any advertisement which contravenes any of the provisions of section 3, and the Court trying such contravention may direct that such newspaper, periodical, pamphlet, hand-bill or other document or such article or thing shall be forfeited to the Provincial Government.

(2) The Provincial Government shall prescribe the persons or classes of persons who may be authorised under sub-section (1) to take the action provided for under that sub-section.

of 1952.]

(Sections 5—10.)

5. Whoever contravenes any of the provisions of section 3 shall, on conviction, be punishable with imprisonment which may extend to one year, or with fine which may extend to one thousand rupees, or with both. Penalty.

6. Nothing in this Act shall apply to—

- (a) any medical treatise or book, or any treatise or book dealing with the subject from a *bona fide* scientific or social standpoint, or
- (b) any advertisement, or any article or thing sent confidentially in the prescribed manner only to a medical practitioner or to a wholesale or retail chemist for the purpose of his business, or
- (c) any advertisement made, printed or published with the previous sanction of such person or persons as the Provincial Government may appoint in this behalf.

Act not to apply in certain cases.

Explanation.—“Medical practitioner” in this section includes a person regularly practising either the allopathic, homeopathic, *Ayurvedic*, *Unani* or any other system of medicine.

7. No Magistrate other than a Magistrate of the first class shall try an offence punishable under this Act.

Jurisdiction to try offences.

8. Any person empowered to act under this Act shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code.

Officers to be deemed public servants.

LV
60.

9. No suit, prosecution or other legal proceeding shall lie against any person for anything which is, in good faith, done or intended to be done, under this Act.

Indemnity.

10. (1) The Provincial Government may make rules for carrying out the purposes of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the venereal diseases referred to in clause (4) of section 2;
- (b) the diseases, infirmities or abnormalities referred to in section 3;
- (c) the persons and classes of persons referred to in sub-section (2) of section 4;
- (d) the manner of sending confidentially an advertisement, article or thing referred to in clause (b) of section 6.

East Bengal Act I of 1953.

THE EAST BENGAL EMBANKMENT AND DRAINAGE ACT, 1952.

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PART IV.

[E. B. Act I]

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SCHEDULE A.

SCHEDULE B.

SCHEDULE C.

East Bengal Act I of 1953.

THE EAST BENGAL EMBANKMENT AND DRAINAGE ACT, 1952.

[7th January, 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

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 ²[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.

1. (1) This Act may be called the East Bengal Embankment and Drainage Act, 1952. Short title, extent and commencement.
- (2) It extends to the whole of ²[East Pakistan].
- (3) It shall come into force on such date³ as the Provincial Government may, by notification in the *Official Gazette*, appoint.
2. The enactments mentioned in the Schedule C to this Act shall be repealed to the extent mentioned in column 4 of that Schedule. Repeal of former Acts.
3. In this Act, unless there is anything repugnant in the subject or context,— Definitions.
 - (i) “Collector” means the Chief Officer in-charge of the revenue administration of a district and such

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 6th October, 1951, Pt.IV.A, page 1487; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 24th October and 12th November, 1951; 20th February, 24th March and 22nd October, 1952.

²The words within square brackets were substituted for the words “East Bengal” by E.P. Ord. XXVIII of 1960, First Schedule.

³The Act came into force with effect from the 2nd July, 1953 *vide* notification No. 5-I., dated the 29th June, 1953 published in the *Dacca Gazette*, dated the 2nd July, 1953, Pt. I, p. 565.

(Section 3.)

other officer as may be specially appointed by the Provincial Government to perform the functions of a Collector under this Act and includes a Deputy Commissioner;

- (ii) "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 bank, 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;
- (iii) "Engineer" means the Engineer in-charge of an Irrigation Division or any Engineer specially appointed to perform the functions of an Engineer under this Act;
- (iv) "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;
- (v) "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 includes 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 Provincial Government, 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;

- (vi) "Prescribed" means prescribed by rules made under this Act;
- (vii) "Public embankment" means an embankment vested in or maintained by the Provincial Government;

(Sections 4—6.)

(viii) “Public water-course” means a water-course vested in or under the charge of the Provincial Government; and

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

4. (1) Every embankment, water-course and embanked tow-path maintained by the Provincial Government, 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 Provincial Government.

Vesting of public embankments, etc., in Provincial Government.

(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 Provincial Government; and all other public embankments and water-courses shall, subject to the provision of section 65, 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, 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. 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 Provincial Government 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.

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

6. The Provincial 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 subsection (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.

Notification.

(Section 7.)

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 Provincial Government;
- (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 endanger 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

(Sections 8—11.)

accordance with the prescribed rules or as may be specially directed by the Provincial Government, 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.

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. General notice and filing of objection.

f the said estimates, specifications and plans the maps aforesaid, shall be deposited with the Engineer and shall be open to the inspection of any person interested who shall be allowed to inspect the same 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.

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 and hear the objections of any persons who may appear, recording such evidence as may be necessary. Hearing of objection.

10. (1) After holding such inquiry, the Engineer shall proceed as follows, that is to say,— Order after inquiry.

- (a) if he considers that the proposed act or work or any modification of the same should not be done or executed, or
- (b) if he considers that the proposed act or work or any modification of the same should be done or executed,

he shall record his decision to that effect and submit a report to the Irrigation Superintending Engineer to whom he is subordinate.

(2) The decision of the Engineer under clause (a) or clause (b) of sub-section (1) shall be announced in the prescribed manner.

11. Any person aggrieved by a decision of the Engineer under section 10 may, within thirty days from the date of its announcement, prefer an appeal to the Irrigation Superintending Engineer to whom the Engineer is subordinate. After the expiry of the said period, the Irrigation Superintending Engineer shall proceed to consider the Appeal from order of the Engineer.

(Sections 12—14.)

report and the appeal, if any, and after making such further inquiry, as he may deem necessary, may record an order confirming, modifying or reversing the Engineer's decision and shall, as soon as possible, forward through the Chief Engineer of Irrigation, the report submitted by the Engineer, together with his remarks or order on appeal, if any, for the consideration of the Provincial Government.

Order of the Provincial Government. 12. On receipt of such report, the Provincial Government shall proceed to consider the same and shall pass such orders as it deems appropriate. Every order that the proposed work, or any modification thereof, be done or executed shall be notified in the *Official Gazette*.

Special power conferable by Provincial Government. 13. Notwithstanding anything contained in this Part of the Provincial Government may, by a special order passed in respect of any act or work specified in section 7, or a general order in respect of any class of work, authorise the Engineer to pass, after such enquiry as may be prescribed in section 9, an order that such act or work or any modification thereof may be done or executed without previous reference to any superior authority; or the Provincial Government may authorise the Irrigation Superintending Engineer to pass such order without previous reference to any superior authority:

Provided that every such order passed under the authorisation of the Provincial Government shall be subject to the provisions of section 67.

Alteration of road, etc., interfering with drainage. 14. (1) Whenever an order shall have been passed in cases falling under clause (6) of section 7 directing that any road owned by a local authority, which interferes with the drainage of any tract of land, be altered, or that any water-course be constructed under or through such road, the Engineer may require such authority to make such alteration or construct such water-course, and in the events of its failing to comply with such requisition in such manner and within such time as the Engineer may prescribe, the Engineer may cause the road to be altered or the water-course to be constructed by the officers of the Provincial Government.

(2) The expenses of such alteration or construction shall be borne by the local authority concerned so far as the same shall have been incurred on account of insufficient provisions having been made at the time of the construction of the said road for the natural drainage then existing, and the remainder of the expense, if any, shall be charged upon, and recovered from the owners of the lands benefited, in accordance with the provisions of this Act. If any dispute arises as to the apportionment of expenses under this clause between such authority and the owners of the lands benefited, the dispute shall be decided by the Provincial Government, whose decision shall be final.

(Sections 15—17.)

15. (1) (a) If any person desires that a bridge, culvert, syphon or sluice be made in any public embankment for the purpose of drainage, or

Application for construction of sluice embankment, water-courses, etc.

(b) if, within any area which has been included in a notification under section 6, any person desires that any new embankment be erected, that any existing embankment be lengthened, enlarged, repaired or removed, or that the line of any embankment be altered, or that any new water-course be made, or that any water-course be obstructed or diverted, he may make an application in writing to the Engineer.

(2) The application shall contain such particulars of the lands likely to be benefited or affected by the work as may enable the engineer to judge of the advantage which may be derived from the project.

(3) If it should appear to the Engineer that the work applied for is one which may be executed with advantage, the procedure mentioned in the 7th and following sections of this Act shall be followed in respect of the proposed work.

16. Whenever the Engineer shall be of opinion that the removal of any trees, houses, huts or other buildings, situated between a public embankment and the river, is necessary, or that land is required for widening an existing embanked tow-path, or for construction of a new embanked tow-path, he shall make a report to that effect to the Collector of the District concerned, accompanied by a detailed statement of the trees, houses, huts or other buildings to be removed or of the land required. The Collector shall submit such report to the Provincial Government through the Commissioner of the Division in order that proceedings may be taken for obtaining possession of such trees, houses, huts and buildings or land in accordance with the provisions of the Land Acquisition Act, 1894, or other law for the time being in force for the acquisition of land for public purposes.

Power of removal of houses, trees, etc.

17. If any works proposed to be undertaken in accordance with this Act, or the lands which are likely to be benefited or affected by such works, are situated within the limits of different Irrigation Divisions, the Engineer of any Irrigation Division within which any portion of such works or land is situated may apply to the Irrigation Superintending Engineer of the Circle concerned for authority to proceed in such matter; and the Irrigation Superintending Engineer of the Circle, with the concurrence of any other Irrigation Superintending Engineer within whose Circle any such lands are situated, may give authority to such Engineer, or to any other Engineer within whose Division any portion of such

Procedure where land likely to be benefited or affected are in different areas.

(Sections 18—21.)

lands is situated, to carry out all or any proceedings under this Act in respect of all the lands benefited or affected by such works.

Power to make repairs. 18. The Engineer may make any repairs in, and may do all acts necessary and proper for the maintenance of, any public embankment, public water-course or any other work executed or taken charge of under the provisions of this Act or of any previous similar Act.

Construction of temporary dam, road-way or water-courses. 19. (1) Whenever any person desires that a temporary road-way should be made over, or that temporary water-course should be made through, any public embankment, or that a temporary dam should be constructed in any embanked river or public water-course, he shall apply to the Engineer or to any person appointed in that behalf by the Engineers.

(2) Such Engineer or person shall communicate the application with his opinion to the Irrigation Superintending Engineer of the area concerned and shall await the Irrigation Superintending Engineer's order in respect thereof, unless he thinks that there is special reason for the immediate execution of the work, in which case he may execute the same or cause it to be executed without waiting for the orders of the Irrigation Superintending Engineer.

(3) The proposed work shall be executed by an officer of the Provincial Government on the applicant's depositing the amount estimated by the Engineer to be necessary to defray the expenses of, and incidental to, making and removing such road-way, or of, and incidental to, making, closing or removing such water-course or dam. If the amount deposited is found afterwards to exceed the amount required, such excess shall be returned to the said applicant.

Opening and shutting of sluices. 20. Sluices constructed in any public embankment shall be opened or shut only by or with the general or special permission of the Engineer or of the officer in the immediate charge of the embankment, under such orders, either general or special, as he may receive from the Engineer.

Power to enter into and survey lands. 21. (1) It shall be lawful for the Engineer, or any person whom he may authorise in writing in that behalf, in order to carry out any of the purposes of this Act, to enter upon and survey, and take levels of any land; to dig or bore into the sub-soil; to do all other acts necessary to ascertain whether the land is adapted to the purpose projected by such Engineer; to set out the boundaries of the land proposed to be taken and the intended line of the work proposed to be made thereon; to mark such levels, boundaries and line, by placing marks and cutting trenches; and, where otherwise

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(Sections 29—31.)

29. No claim under the last preceding section shall be entertained which shall be made later than two years next after the completion of the work by which such right is injuriously affected.

Limitation
to claims
or damages.

Act I of
1894.

30. When any such claim is made, proceedings shall be taken for determining the amount of compensation, if any, which should be made and the person to whom the same should be payable, as far as possible, in accordance with the provisions of the Land Acquisition Act, 1894, or other law for the time being in force for the acquisition of land for public purposes.

Procedure
for compen-
sation.

31. In every such case which is referred to the judge and assessors or to arbitrators for the purpose of determining whether any, and if so, what amount of compensation should be awarded, the judge and assessors or the arbitrators—

Matters to
be and not
to be consi-
dered in
determining
compensa-
tion.

(i) shall take into consideration—

- (a) the market-value of the property or right injuriously affected at the time when the act was done or the work executed,
- (b) the damage sustained by the claimant by reason of such act or work injuriously affecting the property or right,
- (c) the consequent diminution of the market-value of the property or right injuriously affected when the act was done or the work executed, and
- (d) whether any person has derived, or will derive, benefit from the act or work in respect of which the compensation is claimed or from any work connected therewith, in which case they shall set off the estimated value of such benefit, if any, against the compensation which would otherwise be decreed to such person; but

(ii) shall not take into consideration—

- (a) the degree of urgency which has led to the act or work being done or executed, and
- (b) any damage sustained by the claimant, which if caused by a private person, would not in any suit instituted against such person justify a decree for damages.

(Sections 32—36.)

Acquisition of land in emergency.

32. Notwithstanding anything contained in any other law for the time being in force, whenever any land or earth from any land is required for the purposes of any works commenced in pursuance of the provisions of section 24 or for the purposes of section 18 in cases where the Collector shall be of opinion that proceedings for the acquisition of such land, according to the provisions of section 27, would cause delay, he shall cause a proclamation to be issued in the prescribed form giving notice thereof at convenient places in the locality in which such land is situated, whereupon the land shall, subject to the claims for compensation, vest absolutely in the Provincial Government, free from all incumbrances. The Collector may take actual possession of the land as soon as it so vests in the Provincial Government.

Claims for compensation in case of acquisition of lands in emergency.

33. Whenever any land vests in the Provincial Government under the provisions of the next preceding section, the Collector shall cause a general notice to be issued in the prescribed form at convenient places on or near the land so vested, stating that the Provincial Government shall take possession of the land, and that claims to compensation for all interests in such lands shall be made to him.

Service of special notice.

34. The Collector shall also serve notice to the same effect on the occupier (if any) of such land, and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside, or have agents authorised to receive service on their behalf, within the revenue districts in which the land is situate.

Determination of compensation for acquisition of land in emergency.

35. After service of such notices, proceedings shall be had and taken to determine the amount of compensation to be payable in respect of such land, in accordance with the provisions of the Land Acquisition Act, 1894, or any other law for the time being in force for the acquisition of land for public purposes. Act I 1894.

PART V.

Cost of works, proceeding, etc.

1. *Ascertainment of costs.*

Embankment in Schedule A.

36. (1) The provisions of section 39 and the remaining sections of this Part following it shall not apply—

(i) to any embankment mentioned in Schedule A to this Act; or

(Sections 37—40.)

(ii) to any embankment or water-course which may, under the proviso to section 37, be restored to, or, under section 38, be included in such Schedule save so far as any works or repairs are to be done or executed therein or in relation thereto under the provisions of section 15 or of section 19; or

(iii) to any of such embankments as may hereafter be erected for the protection of lands which, at the commencement of this Act, are protected by the embankments mentioned in the aforesaid Schedule, save so far as the erection of such embankment may protect lands not protected by embankments mentioned in the aforesaid Schedule.

(2) All sums payable in respect of any works or repairs executed in or in relation to the embankments or water-course included in the aforesaid Schedule, except under the provisions of section 15 or of section 19, shall be paid by the Provincial Government.

37. If the Provincial Government is satisfied, after such enquiry as it may think proper, that it is no more necessary for the public interest to retain any embankment mentioned in Schedule A or any embankment or water-course included therein under the next succeeding section, it may, by notification in the *Official Gazette*, exclude the same from the said Schedule:

Exclusion from Schedule A.

Provided that the Provincial Government may, if it is subsequently considered necessary, restore the same to the aforesaid Schedule.

38. The Provincial Government may, by notification in the *Official Gazette*, direct that any embankment not included in Schedule A, or any water-course, be included therein.

Addition to Schedule A.

39. Subject to the provisions of Part III, before the Engineer undertakes the execution of any repairs under section 18 or of any work other than any new work of which the estimates, specifications and plans have been prepared and deposited in the Engineer's Office for public inspection as provided in sections 7 and 8, he shall prepare the specifications and estimates of the expenses to be incurred in respect of such repairs or work including such proportion of the establishment charges as the Provincial Government shall direct.

Estimates and specifications to be prepared.

40. Whenever it appears that the actual expenses to be incurred in respect of any work (including new work) will exceed by one-tenth of the estimates of such work, the Engineer shall forthwith prepare further estimates, and if necessary, further specifications.

Preparation of further estimates and specification

(Sections 41—44.)

Estimates,
etc., open to
inspection.

41. All specifications and estimates prepared under the two last preceding sections together with vernacular translations thereof shall be deposited in the office of the Engineer. Any person interested in such works and repairs may examine and take copies of such specifications and estimates.

General
notice of
receipt of
estimates,
etc., and
objections.

42. A general notice of any such specifications and estimates shall be published in the prescribed manner, and in such general notice shall be specified all lands chargeable for, or likely to be affected by, the said works or repairs. Should any objection in regard to such specifications and estimates be preferred by any person within thirty days of publication of such notice, the Engineer shall pass such orders as may appear to him reasonable and proper.

Preparation
of accounts
and Engineer's
certificate.

43. As soon as possible after the completion of any works or repairs, the Engineer shall prepare accounts of the actual expenses incurred in executing any works or repairs or of any portion of the actual expenses which may be dealt with separately under this and the following sections, and transmit the same to the Collector.

The Engineer shall sign a certificate stating the amount of all such expenses, and specifying the boundaries of the lands which are benefited or affected by the said works or repairs, and stating generally how and to what extent the lands so specified, or any part of them, are affected.

Any such certificate may be amended at any time before the Collector has made an order charging or apportioning the amount under section 49.

On receipt of such certificate or amended certificate, the Collector shall cause a statement to be prepared of the lands which are benefited or protected by such works and repairs, and, except as otherwise provided in this Act, the said amount shall be recoverable from the owners of such lands in the manner hereinafter provided.

Copies of the said account, certificate and statement shall be deposited in the office of the Collector and may there be examined and copies taken by any person interested.

Notice of
receipt of
accounts and
objections.

44. General notice of the receipt and deposit of such accounts, certificates and statements in the office of the Collector shall be given in the manner prescribed.

If, within thirty days of such general notice being given, any interested person objects to the accounts on the ground that the work charged for has not been performed, or that the whole sum charged has not been expended, or that the

(Sections 45—47.)

rates of charge are higher than those mentioned in the estimates, the Collector shall enquire into such objection and pass such orders thereon as may appear to him reasonable and proper.

45. The Collector shall add to the amount appearing in the said certificate all sums which have been paid or have become payable in respect of the said works and repairs, whether as compensation, costs and expenses under, and incidental to, any proceedings taken or directed to be taken under any provision of this Act, and shall then make an order specifying the total sum found payable and in respect of works done under section 14 or section 19, the persons, by whom, or in respect of the other works, the lands in respect of which the same is payable. Total sum payable.

If the order is made in respect of work done under section 14 or section 19, the same shall forthwith be served upon the persons liable to pay; otherwise the Collector shall proceed according to the provisions hereinafter made.

Interest may be charged upon any sum paid as compensation from the date of payment thereof at five *per centum*, or at such other rate not exceeding five *per centum, per annum*, as the Provincial Government may from time to time determine.

2. Liability for costs, apportionment and recovery thereof.

46. The total sum found payable under section 45, save so far as is provided in this Act, shall, within a period not exceeding twenty years as the Commissioner of the Division may fix, be paid to the Collector by the owners of the lands benefited or protected by the repairs or works executed and by the persons deemed to be owners under the proviso to clause (v) of section 3. Persons liable to pay.

47. So soon as the total sum payable as aforesaid has been ascertained, the Collector shall cause general notice to be given in the prescribed manner, specifying the lands in respect of which any portion of such total sum will be chargeable. In addition, the Collector shall cause special notices to the same effect to be served, in the prescribed manner, on the owners of lands. Such notices shall make it known that an enquiry will be held on the date and at the place therein named for the purpose of apportioning amongst such owners the said total sum, with interest and the cost of apportionment. Notice to be given before apportionment.

(Sections 48—52.)

Inquiry.

48. (1) In any such enquiry, the Collector shall—

(a) hear the objection of any person who may appear and claim that—

(i) his land, or part of it, has not been benefited, or

(ii) the land shown in his name does not belong to him in whole or in part; and

(b) take down in writing the names of all persons who may claim, or who may be alleged by any party interested to be owners of any lands mentioned in such notice.

(2) In default of appearance of any person referred to in clause (b) of the preceding sub-section, the Collector shall issue and serve a notice in the prescribed manner calling on him to appear at the date and place therein mentioned, and to show cause against being included in the order of apportionment to be made therein, and shall adjourn the enquiry till such date.

Apportionment amongst owners of lands.

49. At such or any subsequently adjourned inquiry, the Collector shall charge the owners concerned with the total amount payable and shall apportion the same amongst them, either—

(a) rateably in proportion to the respective benefits derived by such lands from such repairs or works; or

(b) in proportion to the areas of lands benefited or protected thereby.

Payment of amount apportioned.

50. The amount charged and apportioned under the next preceding section shall be payable in equal instalments on such days as the Commissioner of the Division may direct:

Provided that not more than four instalments shall be payable in any one year.

Interest payable on amount apportioned.

51. Interest shall be charged from the date of apportionment on the amount apportioned, less any instalment of such amount paid from time to time. The interest so charged shall be at the rate of five *per centum*, or at such rate, not exceeding five *per centum, per annum*, as the Provincial Government may from time to time determine.

Apportionment of further expenses.

52. If after the apportionment of the expenses of any works and repairs as above prescribed, any expenses not included in such apportionment shall be found to have been paid or to have become payable on account of the said works

(Sections 53—56.)

or repairs, whether as compensation or otherwise, the Collector may proceed to apportion such further expenses in the manner in this Part provided.

53. (1) On the completion of any charge or apportionment under this Act, the Collector shall make an order specifying—

Final order of apportionment and publication thereof.

- (i) the lands in respect of which any sum charged or apportioned is payable;
- (ii) the sums payable in respect of each of the instalments of such sums; and
- (iii) the dates on which such sums are payable.

(2) The Collector shall cause such order to be published in the manner prescribed for the information of all persons concerned.

54. If any sum payable to the Collector, or any instalment thereof, be not, pursuant to the said order, paid, the same with interest may be recovered as a public demand under the provisions of the Bengal Public Demands Recovery Act, 1913, or any similar Act for the time being in force. Any such sum shall be a charge on the lands in respect of which it is apportioned, other than the lands in relation to which a person is deemed to be owner under the proviso to clause (v) of section 3, and shall not be avoided by any transfer of such lands.

Recovery of sums apportioned.

Ben. Act
III of
1913.

PART VI.

Penalties.

55. Whoever wilfully obstructs any person duly authorised under this Act in removing or levelling any embankment, house, hut or other building, or in the lawful exercise of any of the powers conferred by this Act, shall be liable to imprisonment of either description for a term which may extend to six months, or to fine which may extend to two hundred rupees.

Penalty for obstructing persons in exercise of powers under this Act.

56. (1) Any person,—

- (a) who, without the previous permission of the Engineer, erects, or causes or wilfully permits to be erected, any new embankment, or adds to any existing embankment, or obstructs or diverts, or causes or wilfully permits to be obstructed or diverted, any water-course, if such act interferes or is likely to interfere with, counteract or impede any public embankment or any public water-course;

Penalty for unauthorised interference and abetment thereof.

(Sections 57, 58.)

(b) who, within the limits of the tract included in any prohibitory notification under section 6, without the previous permission of the Engineer, erects, or causes or wilfully permits to be erected, any new embankment, or adds to any existing embankment, or obstructs or diverts, or causes or wilfully permits to be obstructed or diverted any water-course; and

(c) who abets any such act as is mentioned in clauses (a) and (b),

shall be liable, on conviction, to fine which may extend to five hundred rupees or, in default of payment, to imprisonment of either description for a period not exceeding six months.

(2) This section shall not render unlawful the repair of a breach or cut in an embankment so as to restore the embankment to the same dimensions as it had immediately before such breach occurred or cut was made; provided that—

(i) such cut was not made under the orders of the Engineer;

(ii) such repair is made within one year after such breach occurred or cut was made; if, however, the repair cannot be completed within this period, the sanction of the Engineer shall be obtained to the completion thereof;

(iii) such breach or cut forms a gap or, if unrepaired may form a gap between two portions of an existing embankment which were continuous before the breach occurred or cut was made;

(iv) the part of the embankment, in which the breach occurred or cut was made, was not erected or added to in contravention of this section or of any law for the time being in force.

Penalty for
injuring embankment,
etc.

57. Whoever, without due authority in this behalf, cuts through or attempts to cut through any public embankment, or destroys or attempts to destroy any such embankment, or opens or shuts or obstructs any sluice in any such embankment or any public water-course, shall be liable to imprisonment of either description for a term which may extend to one month or to fine which may extend to two hundred rupees.

Penalty for
diverting rivers or grazing
cattle on embankments.

58. Whoever, without the permission of the officer in immediate charge of the embankments, makes any dam or other obstruction for the purpose of diverting or opposing the current of a river or water-course wherein or whereon there are public embankments; or,

.of 1953.] ;

(Sections 59—61.)

When required by the Engineer, refuses or neglects to remove any such dam or obstruction so made by him; or, without the permission of the Engineer or of the officer in immediate charge of the embankment previously obtained, cuts or otherwise alters the banks of any embanked river or water-course or removes the earth from any public embankment or drives stakes into it, or, by any other wilful act, destroys or diminishes the efficiency of such embankment, or causes or knowingly and wilfully permits any cattle to graze upon any such embankment, or tethers or causes or wilfully permits any cattle to be tethered upon any such embankment or root up any grass or other vegetation growing on any such embankment, shall be liable to imprisonment of either description for a term which may extend to six months or to fine which may extend to two hundred rupees.

59. The Magistrate, while convicting any person of an offence under any of the three last preceding sections, may order that such person shall remove the embankment or obstruction, or repair the damage, in respect of which conviction is held, within a period fixed by such order.

Removal of obstruction and repair of damage.

If such person neglects or refuses to obey such order within the period fixed, the Magistrate may cause such embankment or obstruction to be removed and such damage to be repaired by the Engineer; and the cost of such removal or repair shall be levied from such person, in addition to any other penalty, in manner provided in sections 386, 387 and 389 of the Code of Criminal Procedure, 1898.

act V of 898.

PART VII.

Miscellaneous.

60. In any enquiry or appeal under this Act, the Engineer, the Irrigation Superintending Engineer, the Collector and the Commissioner shall have the same powers as those conferred on Courts by the Code of Civil Procedure, 1908, of summoning and examining witnesses and compelling the production of documents.

act V of 908.

Powers regarding examination of witnesses, etc.

61. No proceedings under this Act shall be impeached or affected by reason of any mistake in the name of any person thereby rendered liable to pay any sum of money, or in the description of any land in respect of which such person is rendered liable to pay, provided the provisions of this Act and the rules made thereunder are in substance and effect complied with; and no proceedings under this Act shall, for want of form, be quashed or set aside in any Court of Justice.

Bar to impeachment of proceedings.

(Sections 62—69.)

Appeals from orders.

62. Every order passed by the Engineer in respect of applications made under section 15 and every order passed by the Engineer under section 42, shall be appealable to the Irrigation Superintending Engineer concerned, and every order passed by the Collector under section 44 or section 53, shall be appealable to the Commissioner of the Division; but no appeal shall lie under this section against any order unless the same be presented within thirty days from the date of the order.

General control of Irrigation Superintending Engineer.

63. The powers conferred on the Engineer under this Act shall be exercised subject to the general control and orders of the Irrigation Superintending Engineer, to whom he is subordinate, and the powers of the Irrigation Superintending Engineer shall be exercised subject to the general control and order of the Chief Engineer, Irrigation.

General control.

64. All the powers of a Collector under this Act shall be exercised under the general control and orders of the Commissioner of the Division, and all the powers of the Commissioner shall be subject to the similar control and orders of the Board of Revenue.

Disposal of land not required.

65. Whenever the maintenance of any public embankment, or the retention of any land appropriated to the purposes thereof, may no longer be required, such land shall be disposed of by the Collector in such manner and subject to such conditions as may be prescribed.

Delegation of powers of Collector and Engineer.

66. (1) The Collector or Engineer may delegate any of his powers to any officer subordinate to him, but any order passed by such officer in exercise of any of the delegated powers shall, on the presentation of a petition by the aggrieved person within thirty days of such order, be subject to revision by the Collector or Engineer, as the case may be.

(2) An order passed by the Collector or Engineer under sub-section (1) shall be subject to the foregoing provisions of this Act as if it were an original order passed by them.

Power of revision of the Provincial Government.

67. Any order passed by any authority under any provision of this Act shall be subject at any time to be varied or set aside by the Provincial Government.

Public servant.

68. All officers empowered to act under any provision of this Act and all persons authorised by such officers shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code.

XLV
1860.

Jurisdiction.

69. All offences created by this Act shall be enquired into and tried by a Magistrate of the first or second class.

(Sections 70—74.)

70. Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force, no civil court shall entertain any suit, appeal or application relating to any act or work, the execution whereof is or has been proposed or undertaken by the Engineer under the provision of section 24.

Bar to suits, appeals and applications.

71. (1) The cost payable in respect of any act, work or repair which has, before the commencement of this Act, been completed under the provisions of the enactments repealed by section 2, shall, notwithstanding such repeal, be recoverable under the provisions of the enactments so repealed.

Savings.

(2) Any act or work of the nature referred to in section 7, or any repair commenced under the provisions of the enactments repealed by section 2, which remains pending on the date of the commencement of this Act, shall be deemed to have been commenced under the corresponding provision of this Act and shall be continued, so far as may be, in accordance with the provisions of this Act.

72. No suit, prosecution or other legal proceeding shall lie against any person for anything which is, in good faith, done or intended to be done under this Act.

Indemnity.

73. (1) The Provincial Government may, after previous publication, make rules to carry out the purposes of this Act.

Power of Provincial Government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the regulation of the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;
- (b) the manner of demarcation of plots or parcels of land under section 5;
- (c) the form of any notice, notification, proclamation or order required to be served or published under this Act and the manner of service or publication thereof;
- (d) the fixation of the proportion of establishment charges under sub-section (6) of section 7;
- (e) the person by whom, the time, place or manner at or in which anything for the doing of which provision is made in this Act, shall be done;
- (f) the fee payable for taking copies of estimates, specifications, statement and other documents; and
- (g) the amount of any charge made under this Act.

74. Nothing in this Act shall apply to any embankment, land or water-course which is under the operation of any of the Acts mentioned in Schedule B to this Act.

Excluding from operation of the Act.

SCHEDULE A.

(See section 4.)

No. 1.

Talaimari Embankment.

This is a continuous line of embankment on the left bank of the river Ganges, 8,224 feet in length, more or less. It commences at a brick-pillar at the village of Sahibganj, pargana Gururhat, passes through villages Ghoramara and Ramchandra-pur, and terminates at a brick-pillar fixed at the village of Talaimuri, pargana Lashkarpur, where it joins with the Rajshahi and Pabna Road.

[This was included in Schedule D to the Bengal Embankment Act, 1873 (Bengal Act VI of 1873), by notification, dated the 23rd February, 1885, published in *Calcutta Gazette*, 1885, Part I, page 139, as amended by notification No. 797, dated the 12th February, 1895, published in *Calcutta Gazette*, 1895, Part I, page 127.]

No. 2.

Boalia Embankment.

This is a continuous line of embankment on the left bank of the river Ganges, 14,180 feet in length, more or less. It commences by its junction with the pucca road at a brick-pillar in the ground at the village of Kassaipara, 1,170 feet, west of Bara Kuti, pargana Gururhat. It passes through villages Kassaipara, Khas mahal, Srirampur, Nababganj, Nabinagar and Bulanpur, and terminates at a point where it joins with the Godagari road embankment in the village of Bulanpur, pargana Gururhat, its termination being marked by a brick-pillar in the ground at this point north-west of the Judges Court-house.

[This was included in Schedule D to the Bengal Embankment Act, 1873 (Bengal Act VI of 1873), by notification, dated the 23rd February, 1885, published in *Calcutta Gazette*, 1885, Part I, page 139, as amended by notification No. 797, dated the 12th February, 1895, published in *Calcutta Gazette*, 1895, Part I, page 127.]

No. 3.

Cutchery Embankment.

This is a continuous line of embankment on the left bank of the river Ganges, 1,729 feet in length, more or less. It commences at a brick-pillar fixed in the ground on the south side of the Nator road at the village of Bulanpur, pargana Gururhat and terminates at a point where it meets the Rampur Boalia Embankment in the village of Bulanpur, pargana Gururhat.

[This was included in Schedule D to the Bengal Embankment Act, 1873 (Bengal Act VI of 1873), by notification, dated the 23rd February, 1885, published in *Calcutta Gazette*, 1885, Part I, page 139, as amended by notification No. 797, dated the 12th February, 1895, published in *Calcutta Gazette*, 1895, Part I, page 127.]

of 1953.]

SCHEDULE B.

No. 4.

Godagari Road Embankment.

This is a continuous line of embankment (which is also a district road) on the left bank of the river Ganges, 12,250 feet in length, more or less. It commences at a brick-pillar fixed in the ground at the termination of Rangpur-Boali Embankment, north-west of Judges Court-house, in the village of Bulanpur, pargana Gururhat, passes through villages Khasmahal, Chalnai, Haropur, Gobindapur and Nabaganga, and terminates at a brick-pillar fixed in the ground in the village of Sonaikandi, pargana Gururhat.

[This was included in Schedule D to the Bengal Embankment Act, 1873 (Bengal Act VI of 1873), by notification, dated the 23rd February, 1885, published in *Calcutta Gazette*, 1885, Part I, page 139, as amended by notification No. 797, dated the 12th February, 1895, published in *Calcutta Gazette*, 1895, Part I, page 127.]

No. 5.

Pathanpara Embankment.

The embankment having a length of 2,450 feet, more or less and comprising cadastral survey plot Nos. 375 and 374 in mauza Sreerampur and Nos. 289, 290, 291, 302, 509, 591, 592, 484 and 510 in mauza Dargapara in Boalia thana, district Rajshahi, and having an area of 2.587 acres, more or less. [This was included in Schedule D to the Bengal Embankment Act, 1873 (Bengal Act VI of 1873), by notification No. 9-I, dated the 26th May, 1944.]

No. 6.

The embankment in front of the quarter of the Principal, Rajshahi College.

The embankment in front of the quarter of the Principal, Rajshahi College, having a length of 766 feet, more or less and comprising parts of cadastral survey plot Nos. 385, 387 and 388 of mauza Dargapara, jurisdiction list No. 204, police-station Boalia, district Rajshahi, and having an area of 0.462 acre. [This was included in Schedule D to the Bengal Embankment Act, 1873 (Bengal Act V of 1873), by notification No. 9-I., dated the 26th May, 1944.]

SCHEDULE B.

(See section 74.)

Year. 1	Number. 2	Short title. 3
		Bengal Acts.
1865	V	The Canals Act.
1876	III	The Bengal Irrigation Act.

SCHEDULE C.

(See section 2.)

Year.	Number.	Short title.	Extent of Repeal.
1	2	3	4
		Bengal Acts.	
1873	VI	The Bengal Embankment Act	So much as has not been repealed.
1882	II	The Bengal Embankment Act	The whole.
1915	IV	The Bengal Embankment (Sundarbans) Act.	The whole.
1951	VI	The Bengal Embankment (Extension to Sylhet) Act.	The whole.
		Assam Act.	
1941	VII	The Assam Embankment and Drainage Act.	The whole in its application to the district of Sylhet.
		East Bengal Ordinance.	
1951	XVI	The Bengal Embankment (East Bengal Amendment) Ordinance.	The whole.

East Bengal Act II of 1953.

THE EAST BENGAL BUILDING CONSTRUCTION ACT, 1952.¹

[21st March, 1953.]

An Act to provide for the prevention of haphazard construction of buildings and excavation of tanks which are likely to interfere with the planning of certain areas in ²[East Pakistan].

WHEREAS it is expedient to provide for the prevention of haphazard construction of buildings and excavation of tanks which are likely to interfere with the planning of certain areas in ²[East Pakistan];

It is hereby enacted as follows :—

1. (1) This Act may be called the East Bengal Building Construction Act, 1952. Short title,
extent and
commence-
ment.

(2) It extends to the whole of ²[East Pakistan].

(3) It shall come into force,—

(a) in the areas to which notification No. 2306L. S.-G., dated the 26th July, 1951, relates, on and from the date on which the East Bengal Building Construction Ordinance, 1951, as enacted and continued in operation by the East Bengal Expiring Laws Act, 1951, ceases to operate; and

(b) in other areas, on and from such dates as the Provincial Government may, by notification in the *Official Gazette*, direct.

(4) The Provincial Government may, by notification in the *Official Gazette*, withdraw the operation of this Act from any area.

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

(a) "Authorised Officer" means an officer appointed by the Provincial Government, by notification in the *Official Gazette*, to exercise in any area the functions of an Authorised Officer under this Act;

(b) "building" includes a house, out-house, hut, wall and any other structure whether of masonry, bricks, corrugated iron sheets, metal, tiles, wood, bamboos, mud, leaves, grass, thatch or any other material whatsoever;

¹For Statement of Objects and Reasons, see the *Dacca Gazette*, *Extraordinary*, dated the 3rd October, 1952, Pt. IVA, p. 1740; for proceedings of Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 6th, 30th and 31st October, and 1st November, 1952.

²The words within square brackets were substituted for the words "East Bengal" by E. P. Ord. XXVIII of 1960, First Schedule.

(Sections 3—5.)

- (c) "Committee" means a Building Construction Committee constituted for any area in the prescribed manner;
- (d) "owner" in relation to a building or tank means the person at whose expenses such building or tank is constructed or excavated and who has the right to transfer the same, and includes his heirs, assigns and legal representatives;
- (e) "prescribed" means prescribed by rules made under this Act;
- (f) "tank" includes ditch, drain, well and channel; and
- (g) "temporary building" means such building which is declared by the Authorised Officer to be of a temporary nature.

Restriction
on construc-
tion of build-
ing and
excavation of
tank.

3. (1) Notwithstanding anything contained in any other law for the time being in force, or in any agreement, no person shall, without the previous sanction of an Authorised Officer, construct any building or excavate any tank within the area to which this Act applies; and such sanction shall be subject to such terms and conditions as the Authorised Officer may think fit to impose.

(2) The Provincial Government may, by notification in the *Official Gazette*, direct that the power of an Authorised Officer under sub-section (1) shall be exercised by a Committee in such area as may be specified in the notification.

(3) When a notification under sub-section (2) has been issued, the Authorised Officer shall not exercise the power conferred on him by sub-section (1) in the area to which the said notification relates.

(4) The provisions of sub-section (1) shall not apply to normal repairs to existing buildings.

Power of re-
moval of
temporary
building.

4. The Authorised Officer may, by a notice served in the prescribed manner, direct the owner of a temporary building, erected prior to the date of the coming into force of this Act, to remove the same within the period mentioned in the notice or within such further period as may be extended by the Authorised Officer; and the owner thereof shall, on payment to him of such compensation as the Authorised Officer thinks fair and reasonable, remove it within the period aforesaid.

Power of re-
moval of
building
under con-
struction.

5. (1) The Authorised Officer may, by a notice served in the prescribed manner, direct the owner of a building or tank, the construction or excavation whereof is in progress on the date of the commencement of this Act, not to proceed

(Sections 6—10.)

with the work any more and to remove such building within the period mentioned in the notice or within such further period as may be extended by the Authorised Officer; and the owner thereof shall, on payment to him of such compensation, not exceeding the sum of two hundred and fifty rupees, as the Authorised Officer thinks fair and reasonable, remove the same within the period aforesaid.

(2) The provision of sub-section (1) shall not apply to normal repairs to existing buildings.

6. (1) The Authorised Officer shall, simultaneously with the issue of a notice on the owner of a building under section 4 or sub-section (1) of section 5, issue a notice upon the occupier thereof, if the occupier himself is not the owner, to vacate such building within the period mentioned therein or within such further period as may be extended by the Authorised Officer.

Eviction of occupier.

(2) If the occupier does not, in pursuance of a notice issued under sub-section (1), vacate the building within the aforesaid period, he shall, notwithstanding anything contained in any other law for the time being in force, be liable to be summarily evicted therefrom by the Authorised Officer; and the Authorised Officer may, in effecting such eviction, use or cause to be used such force as may be deemed necessary.

7. If any person intentionally fails to comply with any direction for removal of any building, given to him under section 4 or sub-section (1) of section 5, within the period fixed thereunder, the Provincial Government may cause the temporary building or the building under construction, as the case may be, to be removed at its own expenses in which case such person shall not be any more entitled to any compensation.

Removal of building by the Provincial Government.

8. An application for sanction under section 3 shall be made to the Authorised Officer or the Committee, as the case may be, in such manner and form and on payment of such fee as may be prescribed.

Application for sanction.

9. The sanction granted under section 3 shall be liable to cancellation by the Authorised Officer or the Committee, as the case may be, for breach of any of the terms or conditions under which such sanction was granted.

Cancellation of sanction on breach of terms and conditions thereof.

10. (1) For carrying out the purposes of this Act, an Authorised Officer or any person empowered by him in this behalf may, after giving reasonable notice to the occupier of any premises, enter upon such premises after sunrise and before sunset.

Entry into premises.

(Sections 11—15.)

(2) The owner of any building or tank shall, on being required by an Authorised Officer or any person empowered by him in this behalf, produce before him the sanction obtained therefor under section 3.

Exemption. **11.** (1) Nothing in this Act shall apply to any building or tank owned by Government.

(2) The Provincial Government may, on application made to it, exempt any building or tank from the operation of sub-section (1) of section 5, subject to such conditions as it may think fit to impose.

Penalty **12.** (1) Whoever commits any offence by—
 (a) contravening the provision of section 3, or
 (b) failing to comply with any direction given to him by an Authorised Officer under section 4 or sub-section (1) of section 5,

shall, on conviction before a Court of competent jurisdiction, be punishable with a fine which may extend to five hundred rupees, or, in default, with simple imprisonment which may extend up to six months; and the Court convicting the accused shall, if an application in writing is made by the prosecution in this behalf, fix a date within which the building or tank, which is the subject of the contravention, shall be removed or filled up by the person convicted and may, for sufficient reason, extend such date.

(2) If the person convicted under sub-section (1) fails to comply with the direction of the Court under that sub-section within the date fixed or within the date as so extended, the Court may cause the building to be removed or the tank filled up, and the cost thus incurred may be realised from the convicted person in the manner laid down for recovery of fine under section 386 of the Code of Criminal Procedure, 1898. V of 1898.

Cognizance of offence. **13.** No Court shall take cognizance of any offence punishable under this Act except with the previous sanction of the Provincial Government.

Bar to jurisdiction of Civil Court. **14.** Every order under section 3 or section 4 or section 5 or section 6 or section 9 shall, subject to the provision of section 15, be final and shall not be called in question in any Civil Court.

Appeal **15.** An appeal, if presented within thirty days from the date of the order appealed against, shall lie to the Provincial Government against every order under section 3 or section 4 or section 5 or section 6 or section 9, and the decision of the Provincial Government on such appeal shall be final and shall not be called in question in any Civil Court.

of 1953.]

(Sections 16—20.)

XLV of
1860.

16. An Authorised Officer or any person empowered to perform any function under this Act, shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code. **Public servant.**

17. (1) No suit or legal proceeding shall lie against the Provincial Government in respect of anything which is, in good faith, done or intended to be done, under this Act. **Indemnity.**

(2) No suit, prosecution or legal proceeding shall lie against any person in respect of anything which is, in good faith, done or intended to be done, under this Act.

18. (1) The Provincial Government may make rules for carrying out the purposes of this Act. **Power to make rules.**

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters :—

- (a) the constitution of a Building Construction Committee;
- (b) the tenure of office of members of the Committee;
- (c) the resignation and removal of members of the Committee;
- (d) the filling of casual vacancy and the tenure of office of the person filling such vacancy;
- (e) the regulation of functions of the Committee including the procedure and conduct of business at its meeting;
- (f) the manner of service of notice under sections 4 and 5;
- (g) the form of application for sanction under section 3; and
- (h) the amount of fee payable under section 8.

East Ben.
Ord. XII
of 1951.

19. No owner of any building shall be entitled to any compensation under this Act, if he had contravened any provision of the East Bengal Building Construction Ordinance, 1951. **Compensation when not payable.**

20. (1) The East Bengal Expiring Laws Act, 1951, in so far as it relates to the East Bengal Building Construction Ordinance, 1951, is hereby repealed. **Savings.**

(Section 20.)

(2) Any orders passed or appointments made, any notification issued or any direction given or anything done or any action taken or any proceedings commenced or any penalty incurred under any provision of the said Ordinance and in force immediately before the commencement of this Act shall continue in force and be deemed to have been passed, made, issued, given, done, taken, commenced or incurred, as the case may be, under the corresponding provision of this Act as if this Act, had commenced on the date of coming into force of that Ordinance.

(3) This section shall, notwithstanding anything contained elsewhere in this Act, come into force on the date of publication of this Act in the *Official Gazette*.

East Bengal Act X of 1953.

**THE EAST BENGAL GOVERNMENT LANDS AND
BUILDINGS (RECOVERY OF POSSESSION) ACT,
1952.¹**

[8th April, 1953.]

*An Act to provide for speedy recovery of possession of
Government lands and buildings by evicting outgoing
lessees and unauthorised occupants.*

WHEREAS it is expedient to provide for speedy recovery of possession of Government lands and buildings by evicting outgoing lessees and unauthorised occupants;

It is hereby enacted as follows:—

1. (1) This Act may be called the East Bengal Govern- Short title
ment Lands and Buildings (Recovery of Possession) Act, and extent.
1952.

(2) It extends to the whole of ²[East Pakistan].

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

(a) “building” means a building owned by the Provincial Government, and includes the land appurtenant thereto;

(b) “land” means land which vests in, or is in the possession or under the management and control of, the Provincial Government and is used or held for purposes not connected with agriculture or horticulture;

(c) “unauthorised occupant” means a person who is in occupation of any land or building or part of a building without having obtained the express permission or authority of the Provincial Government, and, includes—

(i) a person inducted into any building or part of a building by the lessee thereof; and

(ii) every member of the lessee’s family who remains in occupation of such building or part after the determination of the lease in respect of the same;

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 16th October, 1952, Pt. IVA, p. 1810; for proceedings of the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 21st, 25th, and 28th October, 1952.

²The words within square brackets were substituted for the words “East Bengal” by E.P. Ord. XXVIII of 1960, First Schedule.

(d) the words "lease" and "lessee" have the same meaning as in the Transfer of Property Act, 1882, and for the purpose of section 3, "lessee" includes his heirs, assigns, legal representatives and all persons inducted by him into the demised land. Act IV of 1882.

Eviction of
outgoing
lessees from
land.

3. If, on the expiry, whether before or after the commencement of this Act, of the period of a lease in respect of any land of which the Provincial Government is the lessor or on the determination of such lease on the ground of breach of any covenant imposing an obligation on the lessee to give up possession of the demised land or a part thereof required for any public purpose, the lessee refused or failed, or refuses or fails to vacate that land and put the Provincial Government into possession of the same in accordance with provisions of the Transfer of Property Act, 1882, or the terms and conditions of the lease, then, notwithstanding anything contained in any other law for the time being in force or in any contract, it shall be lawful for the Provincial Government at any time after the expiry or determination of the lease to re-enter upon the demised land and recover *khas* possession of that land by evicting the lessee and by demolishing and removing structures, if any, erected or built thereon by the lessee: Act IV of 1882.

Provided that the Provincial Government shall, before demolishing and removing any structures under this section, issue a notice on the lessee calling upon him to remove such structures within the period specified in the notice.

Determina-
tion of lease
and recovery
of possession
of building
in certain
cases.

4. (1) Notwithstanding anything contained in any other law for the time being in force or any contract, where the lessee of a building or part of a building is a servant of Government in Pakistan, the lease from month to month in respect of such building or part shall, in addition to the modes mentioned in section 111 of the Transfer of Property Act, 1882, terminate— Act IV of 1882.

(a) on the suspension, discharge, removal, dismissal, resignation, retirement or death of such servant or on his transfer from the station in which he is employed to any other station; or

(b) on the transfer of the lessee's interest by assignment, mortgage, sub-lease or in any other manner.

(2) On the determination of a lease from month to month in respect of a building or part of a building in the manner stated in sub-section (1) or in any of the modes mentioned in section 111 of the Transfer of Property Act, 1882, the lessee or the person claiming through him shall, notwithstanding anything contained elsewhere in the said Act or in any other law for the time being in force or in any Act IV of 1882.

(Sections 5—8.)

contract, forthwith put the Provincial Government into possession of such building or part, failing which it shall be lawful for the Provincial Government to re-enter and recover *khas* possession of the same by evicting the lessee or the person claiming through him.

5. (1) If the Provincial Government is satisfied, after making such enquiry as it thinks fit that a person is an unauthorised occupant, it may, by order in writing, direct such person to vacate the land, building or part of a building in his occupation within the period specified in the order. Eviction of unauthorised occupants.

(2) If the person against whom an order under sub-section (1) has been made, refuses or fails to vacate the land, building or part of a building in his occupation within the time fixed, then, notwithstanding anything contained in any other law for the time being in force, it shall be lawful for the Provincial Government to enter upon such land, building or part of a building and recover *khas* possession of the same by evicting such person and by demolishing and removing structures, if any, erected or built by that person.

6. For the purpose of recovering *khas* possession of any land, building or part of a building under the provisions of section 3 or section 4 or section 5, the Provincial Government may use or cause to be used such force as may be necessary. Mode of recovery of possession.

7. (1) The cost of demolition and removal of structures under section 3 or section 5 shall be payable to the Provincial Government by the lessee or the unauthorised occupant, as the case may be. Cost of demolition, and removal of structures.

(2) The Provincial Government may, if such cost be not paid on demand, cause the materials of the structures demolished and removed by it under section 3 or section 5 to be sold in auction in such manner as may be prescribed by rules; and the sale-proceeds, after deducting the cost of demolition and removal of structures, shall be liable to be refunded to the lessee or the unauthorised occupant concerned. If such sale-proceeds are not sufficient to cover the whole of such cost, the balance shall be recoverable as a public demand under the Bengal Public Demands Recovery Act, 1913.

Ben. Act
III of
1913.

Explanation.—In this section, ‘lessee’ means the person in whom the ownership of the structures vested at the time of their demolition and removal under section 3.

8. If the rent payable for a lease in respect of a building or part of a building has been in arrear, the amount due on account of such arrear shall be recoverable as a public demand under the provisions of the Bengal Public Demands Recovery Act, 1913. Arrear of rent for building shall be recoverable as public demand.

Ben. Act
III of
1913.

13. The Provincial Government may make rules for carrying out the purposes of this Act.

East Bengal Act XII of 1953.

THE EAST BENGAL BETTERMENT FEES ACT, 1953.¹

[21st April, 1953.]

An Act to provide for the imposition of betterment fee in respect of the increase in value of lands resulting from improvement works executed by the Provincial Government.

WHEREAS it is expedient to impose betterment fee in respect of the increase in value of lands resulting from improvement works executed by the Provincial Government;

It is hereby enacted as follows:—

(1) This Act may be called the East Bengal Betterment Fees Act, 1953. Short title,
extent and
commence-
ment.

(2) It shall extend to the whole of ²[East Pakistan].

(3) It shall come into force in such areas³ and on such dates³, as the Provincial Government may, by notification, specify.

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

(a) “assessing authority” means such authority or person, as may be prescribed for assessment of betterment fee;

(b) “betterment fee” means the fee payable under section 6 in respect of an increase in the value of land resulting from the execution of an improvement work;

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 24th March, 1953, Pt.IVA, p. 252; for proceedings of the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on 25th March and 1st April, 1953.

²The words within square brackets were substituted for the words “East Bengal” by E.P. Ord. XXVIII of 1960, First Schedule

³The Act came into force in the district of Dacca with effect from the 26th November, 1959, vide notification No. 17089L.R., dated the 4th November, 1959 published in the *Dacca Gazette*, dated the 26th November, 1959, Pt.I, p. 884.

- (c) "improvement work" means any work of improvement including a road scheme, ¹[executed before or after or partly before and partly after the date of commencement of this Act] by the Provincial Government or proposed to be executed by it after that date, which the Provincial Government has, by notification, declared to be an improvement work for the purposes of this Act;
- (d) "notification" means a notification published in the *Official Gazette*;
- (e) "owner" includes the person for the time being receiving, or entitled to receive, whether on his own account or as agent, trustee, guardian, manager or receiver for another person, or for any religious or charitable purpose, the rents or profits of the land in connection with which the word is used; and
- (f) "prescribed" means prescribed by rules made under this Act.

Preliminary
notification
of intention
to impose
betterment
fee.

3. Whenever, in the opinion of the Provincial Government, any improvement work has increased or is likely to increase the value of any land within any area, the Provincial Government may, by notification, declare its intention to impose a betterment fee within that area ²[and may receive and consider suggestions or objections thereto].

Subject-
matters of
the notifica-
tion under
section 3.

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

- (i) a full description of the improvement work;
- (ii) the object for which such work has been, or is proposed to be, executed;
- (iii) the boundaries and descriptions of the area within which the Provincial Government propose to impose the betterment fee; and
- (iv) the period within which ³[and the person before whom] objections to or suggestions about the proposal for the imposition of betterment fee shall be filed or made.

¹The words within square brackets were substituted for the words "executed before the date of commencement of this Act" by the East Bengal Betterment Fees (Amendment) Ordinance, 1959 (E. P. Ord. No. LXXII of 1959), section 3.

²The words within square brackets were inserted by the East Bengal Betterment Fees (Amendment) Ordinance, 1959 (E. P. Ord. No. LXXII of 1959), section 4.

³The words within square brackets were inserted by section 5, *ibid.*

of 1953.]

(Sections 5—8.)

5. (1) After the expiry of the period for filing objections or suggestions mentioned in a notification under section 3, the Provincial Government shall consider the objections and suggestions, if any, and thereafter shall, by notification, declare its intention to impose betterment fee either in the whole area concerned or in a specified part thereof.

Further notification after '[considering] objections, if any.

(2) The area, in respect of which the Provincial Government has, by a notification under sub-section (1), declared its intention to impose the betterment fee, shall be deemed, for the purposes of this Act, to be a notified area.

6. (1) As soon as a notification under sub-section (1) of section 5 is issued, a betterment fee in respect of any land within the notified area shall become payable by the owner of such land on account of the increase in value of that land resulting from the execution of the improvement work.

Payment of betterment fee.

(2) The increase in value as aforesaid shall be the amount by which the market value of the land on the completion of the improvement work estimated, as if the land were clear of buildings or other works, exceeds the market value of the land prior to the execution of the improvement work estimated in the like manner, and the betterment fee shall be ²[one-half] of such increase in value.

7. When it appears to the Provincial Government that an improvement work is sufficiently advanced to enable the betterment fee to be determined, the Provincial Government may, by notification, declare that the execution of the improvement work shall, for the purpose of determining such fee, be deemed to have been completed.

When improvement work may be deemed to be complete for the purpose of assessment.

8. (1) When an improvement work has been completed or shall be deemed to have been completed under section 7, the Provincial Government shall pass orders for assessment of betterment fee on lands within the notified area whereupon the assessing authority shall give notice in writing to every owner of land within that area that he proposes to assess the amount of the betterment fee payable in respect of such land under section 6.

Assessment of betterment fee.

(2) The assessing authority shall then assess the amount of betterment fee payable by each person concerned after giving such person an opportunity of being heard.

¹The word within square brackets was substituted for the word "hearing" by section 6 of the East Bengal Betterment Fees (Amendment) Ordinance, 1959 (E. P. Ord. No. LXXII of 1959).

²The word within square brackets was substituted for the word "one-fourth" by the East Pakistan Finance (Supplementary) Act, 1958 (E. P. Act XII of 1958), section 4.

[E. B. Act XII]

(Sections 9—13.)

(3) When the amount of the betterment fee payable by any person has been determined, the assessing authority shall, by a notice in writing, to be served on the person liable to pay the fee, fix a date by which such payment shall be made; and interest at the rate of five *per centum per annum* upon any amount remaining unpaid on the due date shall be payable from that date.

Payment of
betterment
fee.

9. The person liable for payment of the betterment fee assessed under section 8 may pay the whole amount of such fee by the date fixed, or may, on his application to the prescribed authority, be permitted by such authority to pay the same by such annual instalments not exceeding twelve, together with interest at five *per centum per annum*, as may be determined by that authority.

Appeal.

10. (1) Any person aggrieved by an assessment made under section 8 may, within thirty days from the date of service of the notice under sub-section (3) of that section prefer an appeal in the prescribed manner to the Commissioner of Division against such assessment.

(2) An appeal under sub-section (1) shall not be entertained, unless one-fourth of the betterment fee assessed has been paid prior to the filing of such appeal.

(3) An appeal from every order passed in appeal by the Commissioner of Division, if presented in the prescribed manner and within sixty days of such order, shall lie to the Board of Revenue, whose decision shall be final.

(4) An appeal under this section may be admitted after the period of limitation prescribed therefor, if the person preferring it satisfies the Commissioner of Division or the Board of Revenue, as the case may be, that he had sufficient cause for not preferring the appeal within such period.

Money
payable
shall constitute a
charge
on interest
in land.

11. Every payment due from any person in respect of a betterment fee shall be a charge upon the interest of such person in such land.

Money due
shall be
recoverable
as public
demand.

12. A betterment fee payable under this Act, together with interest due, up to the date of realisation, shall be recoverable as a public demand under the Bengal Public Demands Recovery Act, 1913. Ben. Act III of 1913.

Refund.

13. If the amount of betterment fee payable by any person is, as a result of an appeal under section 10, remitted either in whole or in part, then, the amount realised in excess, if any, shall be refunded to such person by the Provincial Government.

(Sections 14—19.)

14. The Provincial Government, if it thinks fit, may, by notification, exempt any land from the operation of this Act. Exemption.

15. For the purposes of this Act, the Provincial Government may— Power of entry.

(a) authorise any person to enter upon any land or into any premises and inspect such land or premises, and

(b) by written order require any person to furnish to such authority such information in his possession relating to such land or premises as may be specified in the order :

Provided that such authority shall not enter into any premises, without the consent of the occupier thereof, unless at least twenty-four hours' previous notice in writing has been given.

16. Any person authorised to do any act or perform any function under this Act shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code. Public-servant.

Act
KLV of
1860.

17. The Provincial Government may, by notification, direct that any power conferred or duty imposed by this Act upon the Provincial Government shall, in such circumstances and under such conditions, if any, as may be specified in the notification, be exercised or performed also by any officer or authority subordinate to it. Delegation of powers and duties of the Provincial Government.

18. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is, in good faith, done or intended to be done in pursuance of this Act or any order or rule made thereunder. Indemnity.

(2) No suit or other legal proceeding shall lie against the Provincial Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any order or rule made thereunder.

19. The Provincial Government may make such rules, not inconsistent with the provisions of this Act, as it may deem necessary for carrying out the purposes of this Act. Power to make rules.

East Bengal Act XIII of 1953.
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East Bengal Act XIII of 1953.

THE TOWN IMPROVEMENT ACT, 1953.¹

[15th May, 1953.]

An Act to provide for the development, improvement and expansion of the towns of Dacca and Narayanganj and certain areas in their vicinity and the constitution of a Board of Trustees therefor.

WHEREAS it is expedient to make provision for the development, improvement and expansion of the towns of Dacca and Narayanganj and certain areas in their vicinity by opening up congested areas, laying out or altering streets, providing open spaces for purposes of ventilation or recreation, demolishing or constructing buildings, acquiring land for the said purposes and for the re-housing of persons displaced by the execution of improvement schemes, and otherwise as hereinafter appearing ;

AND WHEREAS it is expedient that a Board of Trustees should be constituted and invested with special powers for carrying out the objects aforesaid ;

It is hereby enacted as follows :—

CHAPTER I.

Preliminary.

1. (1) This Act may be called the Town Improvement Act, 1953.

Short title,
extent and
commence-
ment.

(2) It extends to the areas comprised within the limits of the Dacca Municipality; but the Provincial Government may, by notification under the procedure prescribed by section 162, extend this Act or any provision thereof to the areas comprised within the limits of the Narayanganj Municipality and such other areas in the vicinity of those two Municipalities as may be specified in the notification.

(3) It shall come into force in such areas² and on such dates² as the Provincial Government may, by notification, specify.

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 3rd March, 1951, Pt. IVA, p. 214; for proceedings of the meetings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 13th and 19th March, 1951;

²The Act came into force within the limits of the Dacca Municipality with effect from the 9th August, 1956 vide Notification No. 267-Dev., dated the 8th August, 1956, published in the *Dacca Gazette, Extraordinary* dated the 9th August, 1956, Part I, page 815.

The Act came into force with effect from the 16th May, 1957 in the following areas, vide Notification No. 161-Dev., dated the 6th May, 1957, published in the *Dacca Gazette*, dated the 16th May, 1957, Part I, page 319:—

(1) Narayanganj Municipality;

(2) Areas comprised within the limits of Narayanganj police-station as are outside the limits of the Narayanganj Municipality ;

(3) All areas comprised within the territorial limits of police-stations Fatullah, Keraniganj, Ramna and Tejgaon excluding the area comprised within the limits of the Dacca cantonment; and

(4) Areas comprised within the territorial limits of police-stations Sutrapur, Kotwali and Lalbagh as are outside the limits of the Dacca Municipality.

Definitions.

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

- (a) “Betterment Fee” means the fee prescribed by section 94 in respect of an increase in the value of land resulting from the execution of an improvement or re-housing scheme ;
- (b) “Board” means the Board of Trustees constituted under section 4 ;
- (c) “Building Line” means a line (in the rear of a street alignment), up to which the main wall of a building abutting on a projected public street may lawfully extend ;
- (d) “Chairman” means the Chairman of the Board ;
- (e) “Chamber of Commerce” means a Board or Committee constituted to promote the interests of trade, commerce or industry, ¹[operating in Dacca and Narayanganj] and recognised by Government as such ;
- (f) “Improvement Scheme” means any scheme under Chapter III, but does not include a re-housing scheme or a projected public street referred to in section 69 ;
- (g) “Land” has the same meaning as in clause (a) of section 3 of the Land Acquisition Act, 1894 ;
- (h) “the Municipality” means the Dacca Municipality, and shall include the Narayanganj Municipality on the provisions of this Act being extended to the areas comprised within the limits of the latter municipality under sub-section (2) of section 1 ;
- (i) “Notification” means a notification published in the *Official Gazette* ;
- (j) “Prescribed” means prescribed by rules made under this Act ;
- (k) “Secretary to the Board” means the person for the time being appointed by the Board, to discharge the functions of Secretary to the Board ;
- (l) “Tribunal” means the Tribunal constituted under section 82 ;

Act I of
1894.

¹The words within square brackets were substituted for the words “having its head office situated in the district of Dacca” by the Town Improvement (Third Amendment) Ordinance, 1959 (E. P. Ord. No. XLIII of 1959), section 3.

of 1953.]

(Sections 3—5.)

- (m) "Trustee" means a member of the Board ; and
 (n) the expressions "drain", "public street", and "street alignment" have the same meanings as in clauses (13), (44) and (52) respectively of section 3 of the Bengal Municipal Act, 1932.

Ben. Act
XV of
1932.

CHAPTER II.

THE BOARD OF TRUSTEES.

Constitution of the Board.

3. The duty of carrying out the provisions of this Act shall, subject to the conditions and limitations hereinafter contained, be vested in a Board to be called "The Dacca Improvement Trust"; and such Board shall be a body corporate and have perpetual succession and a common seal, and shall by the said name sue and be sued.

Establishment and incorporation of Board.

4. The Board shall consist of 1* * * * :— Constitution of the Board.

- (a) a Chairman,
 (b) the Chairman of the Dacca Municipality,
 (c) two other Commissioners of the Dacca Municipality,
²[(d) a representative of Trade and Commerce to be appointed by the Provincial Government from among a panel of three names to be submitted by each Chamber of Commerce],
 (e) the Director of Public Health, ³[East Pakistan], and
⁴[(f) not more than three other persons.]

5. The Chairman and the ⁵* persons referred to in clause (f) of section 4 shall be appointed by the Provincial Government by notification.

Appointment of Trustees.

¹The figure, words and comma "9 Trustees, namely" were omitted by the Town Improvement (Amendment) Act, 1956 (E. P. Act VII of 1956), section 2.

²This clause was substituted for the original clause (d) by the Town Improvement (Third Amendment) Ordinance, 1959 (E. P. Ord. No. XLIII of 1959), section 4.

³The words within square brackets were substituted for the words "East Bengal" by E. P. Ord. XXVIII of 1960, First Schedule.

⁴The words within square brackets were substituted for the words "three other persons" by the Town Improvement (Amendment) Act, 1956 (E. P. Act VII of 1956), section 2.

The word "three" was omitted by section 3, *ibid.*

Ex-officio
Trustees.

6. The Chairman of the Dacca Municipality and the Director of Public Health, ¹[East Pakistan], shall be Trustees *ex-officio*.

Election of
other Trustees.

7. (1) The two Commissioners of the Dacca Municipality referred to in clause (c) of section 4 shall be elected by the Commissioners of that Municipality in the manner prescribed.

(2) If at any time the said Municipality is superseded under section 553 of the Bengal Municipal Act, 1932, the seat allotted to it under clauses (b) and (c) of section 4 shall be deemed to have fallen vacant, and such vacancies shall be filled by the Provincial Government by appointment by notification, and the persons so appointed shall hold office until the reconstitution of that Municipality under the provisions of sub-section (2) of section 554 of the said Act:

Ben. Act
XV of
1932.

Provided that at least two of the persons so appointed shall be rate-payers of that Municipality.

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Appoint-
ment in
default of
election.

8. If any of the bodies of electors referred to in section 7 does not, by such date as may be prescribed by rule made in that behalf under section 151, elect a person to be a Trustee, the Provincial Government shall, by notification, appoint a person belonging to such body to be a Trustee; and any person so appointed shall be deemed to be a Trustee as if he had been duly elected by such body.

Additional
Trustees.

9. (1) If and when the provisions of this Act are extended under sub-section (2) of section 1 to the areas comprised within the limits of the Narayanganj Municipality, the number of Trustees of the Board shall be increased by two as follows, namely:—

- (a) the Chairman of the Narayanganj Municipality, and
- (b) one Commissioner of that Municipality.

(2) The Chairman of the Narayanganj Municipality shall be a Trustee *ex-officio*.

(3) One Commissioner of that Municipality referred to in clause (b) of sub-section (1) shall be elected or appointed

¹The words within square brackets were substituted for the words "East Bengal" by E. P. Ord. XXVIII of 1960, First Schedule.

²Sub-section (3) of section 7 was omitted by the Town Improvement (Third Amendment) Ordinance, 1959 (E. P. Ord. No. XLIII of 1959), section 5.

~~of 1953.]~~

(Section 10.)

in a like manner as laid down in sub-section (1) of section 7 and section 8 for the election or appointment of Commissioners of the Dacca Municipality.

Ben. Act
XV of
1932. (4) In the event of supersession of the said Municipality under section 553 of the Bengal Municipal Act, 1932, the provisions of sub-section (2) of section 7 shall apply *mutatis mutandis*.

10. (1) A person shall be disqualified for being appointed or elected a Trustee if he—

Disqualifications for being appointed or elected as Trustee.

- (a) has been convicted of an offence which, in the opinion of the Provincial Government, involves moral turpitude; or
- (b) has been sentenced for any other offence, to transportation or to imprisonment for not less than two years, unless—
 - (i) a period of five years, or such less period as the Provincial Government may allow in any particular case, has elapsed from the expiration of such sentence, or
 - (ii) such person's disqualification on account of such sentence has been removed by an order which the Provincial Government is hereby entitled to make in this behalf; or
- (c) is an undischarged insolvent; or
- (d) holds any office or place of profit under the Board; or
- (e) has, directly or indirectly, by himself or by any partner, employer or employee, any share or interest in any contract or employment with, by, or on behalf of, the Board; or
- (f) is a director, or a secretary, manager or other salaried officer, of any incorporated company which has any share or interest in any contract or employment with, by, or on behalf of, the Board.

(2) No person shall be disqualified as aforesaid, or be deemed to have any share or interest in such contract or employment as aforesaid, by reason only of his having a share or interest in—

- (i) any sale, purchase, lease, or exchange of land, or any agreement for the same; or
- (ii) any agreement for the loan of money, or any security for the payment of money only; or

[E. B. Act XIII]

(Sections 11—14.)

(iii) any newspapers in which any advertisement relating to the affairs of the Board is inserted; or

(iv) the occasional sale to the Board, to a value not exceeding two thousand rupees in any one financial year, of any article in which he trades;

or by reason only of his having a share or interest, otherwise than as director, or secretary, manager or other salaried officer, in any incorporated company which has any share or interest in any contract or employment with, by, or on behalf of, the Board.

The Chairman to be a whole time officer. 11. While any person is holding the office of Chairman he shall not hold any other salaried office ¹[without the previous sanction of the Provincial Government,] and, subject to any exceptions permitted by the Provincial Government, shall devote his whole time and attention to his duties under this Act.

Remuneration of Chairman. 12. The Chairman shall receive such monthly salary and allowances as may be fixed by the Provincial Government.

Leave of absence or deputation of the Chairman. 13. (1) The Provincial Government may, after consultation with the Board, grant leave of absence to the Chairman for such period as it thinks fit.

(2) The allowance (if any) to be paid to the Chairman while absent on leave shall be such as may be fixed by the Provincial Government:

Provided that if the Chairman is a servant of the Government, the amount of such allowance shall be such as he may be entitled to under the conditions of his service under the Government relating to transfer to foreign service.

Appointment, etc., of acting Chairman. 14. (1) Whenever the Chairman is granted leave of absence, the Provincial Government shall appoint a person to act as Chairman.

(2) The salary and allowances of any person appointed to act as Chairman shall be fixed by the Provincial Government.

(3) Any person appointed to act as Chairman shall exercise the powers and perform the duties conferred and imposed by and under this Act on the Chairman and shall be subject to the same liabilities, restrictions and conditions as the Chairman.

¹ The words 'and' comma within square brackets were inserted by the Town Improvement (Amendment) Act, 1956 (E. P. Act VII of 1956); section 4.

of 1953.]

(Sections 15—17.)

15. The Board may permit any Trustee, other than the Chairman or an *ex-officio* Trustee, to absent himself from meetings of the Board for any period not exceeding six months. Leave of absence to other Trustees.

16. (1) The Provincial Government may, by notification, declare that any Trustee other than an *ex-officio* Trustee shall cease to be a Trustee— Removal of Trustees.

- (a) if he has acted in contravention of section 25; or
- (b) if he has been absent from, or is unable to attend the meetings of the Board for any period exceeding the period referred to in section 15; or
- (c) if he has, without the permission of the Board, been absent from the meetings of the Board for any period exceeding three consecutive months; or
- (d) if he is a salaried servant of the Government and if his continuance in office as a Trustee is, in the opinion of the Provincial Government, undesirable.

(2) The Provincial Government shall, by notification, declare that a Trustee shall cease to be a Trustee—

- (i) if he has become disqualified for appointment or election as a Trustee for any of the reasons mentioned in section 10; or
- (ii) if he ceases to be a member of the Municipality or any of the Chambers of Commerce of which he is an elected representative to the Board.

(3) If at any time it appears to the Provincial Government that the Chairman has shown himself to be unsuitable for his office, or has been guilty of any misconduct or neglect which renders his removal expedient, it may, by notification, declare that the Chairman shall cease to hold office as such.

17. If any Trustee be permitted by the Board to absent himself from meetings of the Board for any period exceeding 3 months, or Filling of casual vacancies.

if any Trustee, other than an *ex-officio* Trustee, dies or resigns the office of Trustee or ceases to hold the office of Trustee in pursuance of notification under section 16,

the vacancy shall be filled, within the prescribed period, by a fresh appointment or election under section 5, section 7, section 8 or section 9, as the case may be.

[E. B. Act XIII]

(Sections 18—20.)

Resignation
of
Trustees.

18. Any Trustee, other than an *ex-officio* Trustee, may at any time resign his office but his resignation shall not take effect until accepted by the Board.

Term of
office of
Trustees.

19. (1) The term of office of the first Trustees appointed or elected under section 5, section 7, section 8 or section 9, other than the Chairman, shall commence on such day as may be appointed by the Provincial Government.

(2) Subject to the provisions of section 16, the term of office of Trustees, other than an *ex-officio* Trustee, shall be as follows:—

- ¹[(a) The Chairman—such period as may be fixed by the Provincial Government;]
- (b) a Trustee appointed or elected in pursuance of section 17 in the place of a Trustee who has been permitted to absent himself from meetings of the Board—the period of the absence of the latter Trustee;
- (c) Other Trustees—three years.

(3) Any Trustee shall, if not disqualified for any of the reasons mentioned in section 10, be eligible for re-appointment or re-election at the end of his term of office.

Conduct of Business.

Meetings of
Board.

20. (1) The Board shall meet, and shall from time to time make such arrangements with respect to the place, day, hour, notice, management and adjournment of their meetings as they may think fit, subject to the following provisions, namely:—

- (a) an ordinary meeting shall be held at least once in every month;
- (b) the Chairman may, whenever he thinks fit, and shall, upon the written request of not less than two other Trustees, call a special meeting;
- (c) the Chairman shall attend every meeting of the Board unless absent on leave or prevented by sickness or other reasonable cause;
- (d) no business shall be transacted at any meeting unless at least half the number of the Trustees then in office are present from the beginning to the end of the meeting;

¹This clause was substituted for the original clause (a) by the Town Improvement (Amendment) Act, 1956 (E. P. Act VII of 1956.), section 5.

of 1953.]

(Sections 21, 22.)

- (e) the Chairman shall preside at every meeting, and in his absence from any meeting, the Trustees present shall choose one of their number to preside at the meeting;
- (f) all questions shall be decided by a majority of votes of the Trustees present, the person presiding having a second or casting vote in all cases of equality of votes;
- (g) if a poll be demanded, the names of the Trustees voting and the votes cast by them shall be recorded by the person presiding; and
- (h) minutes of the proceedings, including the names of the Trustees present at each meeting, shall be kept in a book to be provided for the purpose, which shall, on being confirmed, be signed at the next ensuing meeting by the person presiding at such meeting and shall be open to inspection by any Trustee during office hours.

(2) No trustee shall be entitled to object to the minutes of any meeting unless he was present at the meeting to which they relate.

21. (1) The Board may associate with themselves, in such manner and for such period as may be prescribed by rules made under section 152, any person whose assistance or advice they may desire in carrying out any of the provisions of this Act.

Temporary association of members with the Board for particular purposes.

(2) A person associated with themselves by the Board under sub-section (1) for any purpose shall have a right to take part in the discussions of the Board relative to that purpose, but shall not have a right to vote at a meeting of the Board, and shall not be a member of the Board for any other purpose.

22. (1) The Board may from time to time appoint Committees, consisting of such persons of any of the following classes as they may think fit, namely :—

Constitution and functions of Committees.

- (i) Trustees;
- (ii) persons associated with the Board under section 21;
- (iii) other persons whose assistance or advice the Board may desire as members of Committees;

Provided that no Committee shall consist of less than three persons :

(Sections 23, 24.)

Provided further that every Committee shall have at least one Trustee as a member.

(2) The Board may—

- (a) refer to such Committees, for inquiry and report, any matter relating to any of the purposes of this Act, and
- (b) delegate to such Committees, by a special resolution and subject to any rules made under section 152, any of the powers or duties of the Board.

(3) The Board may at any time dissolve, or, subject to the provisions of sub-section (1), alter the constitution of, any such Committee.

(4) Every such Committee shall conform to any instructions from time to time given to them by the Board.

(5) Every decision of a Committee shall be laid before the Board, and the Board shall confirm, reject or modify the same :

Provided that this sub-section shall apply only in so far as the Board has not delegated its powers or duties to the Committee under clause (b) of sub-section (2).

Meetings of
Committees.

23. (1) Committees appointed under section 22 may meet and adjourn as they think proper; but the Chairman may, whenever he thinks fit, call a special meeting of any Committee, and shall call a special meeting of any Committee upon the written request of not less than two members thereof.

(2) The Chairman, if he is a member of a Committee, shall preside at every meeting, and, if he is not a member or is absent from any meeting, the members present shall choose one of their member to preside at the meeting.

(3) No business shall be transacted at any meeting of a Committee unless at least half the number of the members of the Committee are present from the beginning to the end of the meeting.

(4) All questions at any meeting of a Committee shall be decided by a majority of votes of the members present, the person presiding having a second or casting vote in all cases of equality of votes.

Fees for
attendance at
meetings.

24. Every Trustee (other than the Chairman), and every person associated with the Board under section 21, shall be entitled to receive a fee of fifteen rupees *per diem* for attending meetings of the Board or the Committee—

- (i) at which a quorum is present and business is transacted, and

of 1953.]

(Sections 25, 26.)

- (ii) which he attends from the beginning to the end thereof, or for such period as the person presiding at the meeting may consider sufficient to justify the payment of the fee:

Provided that no such fee shall be admissible to a Trustee or a person associated with the Board under section 21, if such Trustee or person is a servant of the Government :

Provided further that the aggregate amount of fees payable to any person in respect of meetings of any kind held during the month shall not exceed such sum as may be prescribed by any rule made under section 151 in this behalf.

25. (1) A Trustee who—

- (a) has directly or indirectly, by himself or by any partner, employer or employee, any such share or interest as is described in sub-section (2) of section 10 in respect of any matter, or
- (b) has acted professionally, in relation to any matter, on behalf of any person having therein any such share or interest as aforesaid,

Trustees and associated members of Board or Committee not to take part in proceedings in which they are personally interested.

shall not vote or take any other part in any proceeding of the Board, or any Committee relating to such matter.

(2) If any Trustee, or any person associated with the Board under section 21 or any other member of a Committee appointed under this Act, has directly or indirectly, any beneficial interest in any land situated in an area comprised in any improvement scheme framed under this Act, or in an area in which it is proposed to acquire land for any of the purposes of this Act,—

- (i) he shall, before taking part in any proceeding at a meeting of the Board or any Committee relating to such area, inform the person presiding at the meeting of the nature of such interest,
- (ii) he shall not vote at any meeting of the Board or any Committee upon any resolution or question relating to such land, and
- (iii) he shall not take any other part in any proceeding at a meeting of the Board or any Committee relating to such area if the person presiding at the meeting considers it inexpedient that he should do so.

26. The Board may enter into and perform all such contracts as they may consider necessary or expedient for carrying out any of the purposes of this Act.

Power to make and perform contracts.

(Sections 27—29.)

Execution of
contracts
and approval
of estimates.

27. (1) Every such contract shall be made on behalf of the Board by the Chairman :

Provided that—

- (a) a contract involving an expenditure exceeding one thousand rupees and not exceeding two lakhs of rupees shall not be made by the Chairman without the previous sanction of the Board; and
- (b) a contract involving an expenditure exceeding two lakhs of rupees shall not be made by the Chairman without the previous sanction of the Board and the Provincial Government.

(2) Every estimate for the expenditure of any sum for carrying out any of the purposes of this Act shall be subject to the approval of the authority who is empowered by subsection (1) to make or sanction the making of a contract involving the expenditure of a like sum.

(3) Sub-sections (1) and (2) shall apply to every variation or abandonment of a contract or estimate, as well as to an original contract or estimate.

Further provisions as to
execution of
contracts,
and provision as to
seal of Board.

28. (1) Every contract made by the Chairman on behalf of the Board shall be entered into in such manner and form as would bind the Chairman if such contract were made on his own behalf, except that the common seal of the Board shall be used; and every such contract may in the like manner and form be varied or discharged.

(2) Every contract for the execution of any work or the supply of any materials or goods shall be in writing and shall be sealed.

(3) The common seal of the Board shall remain in the custody of the Secretary to the Board, and shall not be affixed to any contract or other instrument except in the presence of a Trustee (other than the Chairman), who shall attach his signature to the contract or instrument in token that the same was sealed in his presence.

(4) The signature of the said Trustee shall be in addition to the signature of any witness to the execution of such contract or instrument.

(5) A contract not executed as provided in this section shall not be binding on the Board.

Tenders.

29. (1) At least seven days before the Chairman enters into any contract for the execution of any work or the supply of any materials or goods which will involve an expenditure not exceeding one thousand rupees, or at least fourteen days before entering into such contract involving

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(Sections 30, 31.)

an expenditure exceeding one thousand rupees, he shall give notice, by advertisement in local newspapers, inviting tenders for the same.

(2) In every such case the Chairman shall place before the Board the specifications, conditions and estimates and all the tenders received, specifying the particular tender (if any), which he proposes to accept.

(3) In every case in which the acceptance of a tender would involve an expenditure exceeding two lakhs of rupees, the Board shall submit to the Provincial Government the specifications, conditions and estimates, and all the tenders received, specifying the particular tender (if any), the acceptance of which they propose to sanction.

(4) Neither the Board, nor the Provincial Government shall be bound to sanction the acceptance of any tender which has been made; but the Board, within the pecuniary limits of their powers, as prescribed in sub-section (1) of section 27, or the Provincial Government may sanction the acceptance of any of such tenders which appears to them, upon a view of all the circumstances, to be the most advantageous, or may direct the rejection of all the tenders submitted to them.

30. The Chairman shall take sufficient security for the due performance of every contract involving an expenditure exceeding one thousand rupees. Security for performance of contract.

31. (1) The Chairman shall forward to the Provincial Government a copy of the minutes of the proceeding of each meeting of the Board, within ten days from the date on which the minutes of the proceedings of such meeting were signed as prescribed in section 20, clause (h). Supply of documents and information to the Provincial Government.

(2) If the Provincial Government so directs in any case, the Chairman shall forward to it a copy of all papers which were laid before the Board for consideration at any meeting.

(3) The Provincial Government may require the Chairman to furnish it with—

(a) any return, statement, estimate, statistics or other information regarding any matter under the control of the Board, or

(b) a report on any such matter, or

(c) a copy of any document in the charge of the Chairman.

(4) The Provincial Government may, at any time, cause an investigation to be made, by an officer appointed in this behalf, into the affairs of the Board.

(Sections 32—34.)

Employees of the Board.

Statement of
strength and
remuneration
of staff.

32. The Board shall from time to time prepare, and shall maintain, a statement showing—

- (a) the number, designations and grades of the employees (other than employees who are paid by the day or whose pay is charged to temporary work) whom they consider it necessary and proper to employ for the purposes of this Act,
- (b) the amount and nature of the salary, fees and allowances to be paid to each such employee, and
- (c) the contributions payable under section 160 in respect of each such employee.

Board to
make rules.

33. The Board shall from time to time make rules—

- (a) fixing the amount and nature of the security to be furnished by any employee of the Board from whom it may be deemed expedient to require security;
- (b) for regulating the grant of leave of absence, leave allowances and acting allowances to the employees of the Board; and
- (c) for establishing and maintaining a provident or annuity fund, for compelling all or any of the employees of the Board (other than any servant of the Government in respect of whom a contribution is paid under section 160) to contribute to such fund, at such rates and subject to such conditions as may be prescribed by such rules, and for supplementing such contributions out of the funds of the Board :

Provided that a servant of the Government shall not be entitled to leave or leave allowances otherwise than as may be prescribed by the conditions of his service under the Government relating to transfer to foreign service.

Powers of
appointment,
etc., in whom
vested.

34. (1) Subject to any directions contained in any statement prepared under section 32 and any rules for the time being in force, the power of appointing, promoting and granting leave to employees of the Board, and of censuring, fining, withholding promotion from, reducing, suspending or dismissing them for misconduct, and dispensing with their services for any reason other than misconduct, shall be vested—

- (a) in the case of employees whose monthly basic salary does not exceed one hundred rupees—in the Chairman, and

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(Sections 35—37.)

(b) in other cases—in the Board :

Provided that a servant of the Government or of a local authority whose services have been lent to the Board shall not be so punished except by an authority which would have been competent to inflict such punishment if his services had not been so lent and the Chairman or the Board, as the case may be, shall be entitled only to make a recommendation in that behalf to such authority.

(2) Against any order under sub-section (1) imposing any punishment on him, an employee of the Board may appeal—

(a) to the Board, if the order was passed by the Chairman, and

(b) to the Provincial Government, if the order was passed by the Board.

(3) If the Board are satisfied that the retention of any Government servant, transferred for employment under them, is not desirable or expedient in the interests of the Board, they may recommend to Government for the re-transfer of such servant; and Government shall thereupon re-transfer him accordingly.

35. (a) All statements prepared under section 32, so far as they relate to employees carrying a salary of more than five hundred rupees *per mensem*,

Sanction of Provincial Government required to certain statements, rules and orders.

(b) all rules made under clause (b) or clause (c) of section 33, and

(c) all orders passed by the Board under section 34 and relating to any officer appointed to hold an office carrying a salary of more than five hundred rupees *per mensem*, except orders granting leave to, or imposing punishment on, any such officer,

shall be subject to the previous sanction of the Provincial Government.

36. The Chairman shall exercise supervision and control over the acts and proceedings of all employees of the Board; and, subject to the foregoing sections, shall dispose of all questions relating to the service of the said employees and their pay, privileges and allowances.

Control by Chairman.

37. (1) The Chairman may, by general or special order in writing, delegate to any trustee or employee of the Board any of the Chairman's powers, duties or functions under this Act or any rule made hereunder, except those conferred or imposed upon or vested in him by sections 20, 23, 27, 31 and 34.

Delegation of certain functions of Chairman.

(Section 38.)

(2) The exercise or discharge of any powers, duties or functions delegated under sub-section (1) shall be subject to such conditions and limitations, if any, as may be prescribed in the said order, and also to control and revision by the Chairman.

CHAPTER III.

Improvement Schemes and Re-housing Schemes.

When improvement scheme may be framed.

38. Whenever it appears to the Board, whether upon an official representation made under section 43 or without such a representation,—

- (a) that any buildings in any area which are used or are intended to be used as dwelling places, are unfit for human habitation, or
- (b) that danger to the health of the inhabitants of buildings in any area, or in the neighbouring buildings, is caused by—
 - (i) the narrowness, closeness and bad arrangement and condition of streets or buildings or groups of buildings in such area, or
 - (ii) the want of light, air, ventilation or proper conveniences in such area, or
 - (iii) any other sanitary defects in such area, or
- (c) that for the purpose of—
 - (i) providing building sites, or
 - (ii) developing and improving any area, or
 - (iii) remedying defective ventilation, or
 - (iv) creating new, or improving existing, means of communication and facilities for traffic, or
 - (v) affording better facilities for conservancy,
 it is expedient to lay out new streets or to alter existing streets (including bridges, culverts and causeways), or
- (d) that it is necessary to provide in any area, parks, open spaces, playgrounds or similar amenities, or
- (e) that it is expedient and for the public advantage to provide—
 - (i) housing accommodation, or
 - (ii) buildings for public use and convenience, or
 - (iii) an adequate water-supply, or

of 1953.]

(Sections 39, 40.)

(iv) a drainage, and sewerage scheme,

the Board may pass a resolution to that effect and may then proceed to frame an improvement scheme.

39. When framing an improvement scheme in respect of any area, regard shall be had to—

Matters to be considered when framing improvement schemes.

- (a) the nature and conditions of neighbouring areas and of the Dacca City as a whole;
- (b) the several directions in which the expansion of the Dacca City appears likely to take place; and
- (c) the likelihood of improvement schemes being required for other parts of the Dacca City.

40. An improvement scheme may provide for all or any of the following matters, namely :—

Matters to be provided for in improvement scheme.

- (a) the acquisition by the Board of any land, in the area comprised in the scheme, which will, in their opinion, be required for the execution of the scheme or be affected by the execution of the scheme;
- (b) the laying out or re-laying out of the land in the said area;
- (c) such demolition, alteration or reconstruction of buildings situated on land which it is proposed to acquire in the said area, as the Board may think necessary;
- (d) the construction of any buildings which the Board may consider it necessary to erect for any purpose other than sale;
- (e) the laying out or alteration of streets (including bridges, causeways and culverts);
- (f) the levelling, paving, metalling, flagging, channeling, sewerage and draining of the said streets and the provision therein of water, lighting and other sanitary conveniences ordinarily provided in a Municipality;
- (g) the raising, lowering or levelling of any land in the area comprised in the scheme;
- (h) the formation, retention or enlargement of open spaces;
- (i) the augmentation of the present water-supply, or any other scheme for the improvement of the water-supply;

[E. B. Act XIII

(Sections 41—43.)

- (j) the making of a drainage and sewerage scheme including outfall works; and
- (k) any other matters consistent with this Act which the Board may think fit.

Discontinu-
ance of use
of land and
alteration
or removal
of building,
etc.

41. Whenever it appears to the Board that it is expedient in the interests of the public and for the proper planning of the area included in any improvement scheme—

- (a) that any use of land should be discontinued, or that any conditions should be imposed on the continuance thereof; or
- (b) that any building or works or factory should be altered or removed,

the Board may pass a resolution to the effect and such resolution shall form part of the particulars of the scheme under clause (c) of sub-section (1) of section 45.

Re-housing
persons dis-
placed by
improvement
schemes.

42. The Board may frame schemes (herein called re-housing schemes) for the construction, maintenance and management of such and so many dwellings and shops as they may consider ought to be provided for Persons of the poorer and working classes who—

- (a) are displaced by the execution of any improvement scheme sanctioned under this Act; or
- (b) are likely to be displaced by the execution of any improvement scheme which it is intended to frame, or to submit to the Provincial Government for sanction under this Act.

Authority
for making
an official
representa-
tion for a
general im-
provement
scheme.

43. (1) An official representation referred to in section 38 may be made by the Municipality—

- (a) of their own motion; or
- (b) on a written complaint by the Health Officer of the Municipality; or
- (c) in respect of any area comprised in a municipal ward—on a written complaint signed by twenty-five or more residents of such ward who are liable to pay any tax assessed upon the annual value of buildings or lands leviable under the Bengal Municipal Act, 1932.

(2) If the Municipality decide not to make an official representation on any complaint made to them under clause (b) or clause (c) of sub-section (1), they shall cause a copy of such complaint to be sent to the Board, with a statement of the reasons for their decision.

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1932.

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(Sections 44, 45.)

44. (1) The Board shall consider every official representation made under section 43, and, if satisfied as to the truth thereof and to the sufficiency of their resources, shall decide whether an improvement scheme to carry such representation into effect should be framed forthwith or not, and shall forthwith intimate their decision to the Municipality.

Consideration of official representations.

(2) If the Board decide that it is not necessary or expedient to frame an improvement scheme forthwith, they shall inform the Municipality of the reasons for their decision.

(3) If the Board fail, for a period of six months after the receipt of any official representation made under section 43, to intimate their decision thereon to the Municipality,

or if the Board intimate to the Municipality their decision that it is not necessary or expedient to frame an improvement scheme forthwith,

the Municipality may, if they think fit, refer the matter to the Provincial Government.

(4) The Provincial Government shall consider every reference made to it under sub-section (3), and—

(a) if it considers that the Board ought, under all the circumstances, to have passed a decision within the period mentioned in sub-section (3), shall direct the Board to pass a decision within such further period as the Provincial Government may think reasonable, or

(b) if it considers that it is, under all the circumstances expedient that an improvement scheme should forthwith be framed, shall direct the Board to proceed forthwith to frame an improvement scheme.

(5) The Board shall comply with every direction given by the Provincial Government under sub-section (4).

45. (1) When ¹[for any area within the Municipality] any improvement scheme or rehousing scheme has been framed, the Board shall prepare a notice, stating—

Preparation, publication and transmission of notice as to improvement scheme and supply of documents to applicants.

(a) the fact that the scheme has been framed,

(b) the boundaries of the area comprised in the scheme, and

¹The words within square brackets were inserted by the Town Improvement (Amendment) Ordinance, 1958 (E. P. Ord. No. LXIX of 1958), section 2.

[E. B. Act XIII]

(Sections 46, 47.)

- (c) the place at which particulars of the scheme, a map of the area comprised in the scheme, and a statement of the land which it is proposed to acquire and of the land in regard to which it is proposed to recover a betterment fee, may be seen at reasonable hours.

(2) The Board shall—

- (i) cause the said notice to be published weekly for three consecutive weeks in the *Official Gazette* and in local newspapers, with a statement of the period within which objections will be received, and

¹[(ii) send a copy of the notice to the Chairman of the Municipality.]

(3) The Chairman shall cause copies of all documents referred to in clause (c) of sub-section (1) to be delivered to any applicant on payment of such fee as may be prescribed by rule made under section 152.

Transmission to Board of representation by Municipality, District Board or Union Board.

46. The Chairman of the Municipality ^{2****} to whom a copy of the notice has been sent under clause (ii) of sub-section (2) of section 45 shall, within a period of ³[thirty] days from the receipt of the said copy, forward to the Board any representation which the Municipality ^{4****} may think fit to make with regard to the scheme.

Furnishing list of persons and copy of, or extract from, assessment list.

47. As soon as possible after the publication of a notice under section 45, the Chairman shall send a statement containing the particulars of the land which it is proposed to acquire in executing the scheme or in regard to which it is proposed to recover a betterment fee, to the Chairman of the Municipality, ^{5****} in which any portion of the area comprised in the scheme is situated, with a request to furnish—

- (i) a list of the names and addresses of the persons whose lands are likely to be acquired for, or affected by, the execution of the scheme, and

¹This clause was substituted for the original clause (ii) and the marginal note thereof by the Town Improvement (Amendment) Ordinance, 1958 (E. P. Ord. No. LXIX of 1958), section 2.

²The words "and of the District Board or the President of any Union Board" were omitted by section 3, *ibid*.

³This word was substituted for the word "sixty", *ibid*.

⁴The words "or the District or Union Board" were omitted, *ibid*.

⁵The words "or the Chairman of the District Board or the President of the Union Board" were omitted by section 4, *ibid*.

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(Sections 48, 49.)

- (ii) a copy of or extract from the municipal assessment list,

within fourteen days of the receipt of such request and on payment of prescribed fee.

48. (1) During the thirty days next following the first day on which any notice is published under section 45 in respect of any improvement scheme or re-housing scheme, the Board shall serve a notice on—

Service of notice as to proposed acquisition of land or recovery of betterment fee.

- (a) every person whose name appears in the municipal assessment list or in the list referred to in item (i) of section 47, and
- (b) the occupier (who need not be named) of each premises entered in the municipal assessment list which the Board proposes to acquire in executing the scheme.

(2) Such notice shall—

- (a) state that the Board propose to acquire the land referred to in section 47 or to recover a betterment fee for the purpose of carrying out an improvement scheme or a re-housing scheme, and
- (b) require such person, if he dissents from such acquisition or from the recovery of such betterment fee, to state his reasons in writing within a period of ¹[thirty] days from the service of the notice.

(3) Every such notice shall be signed by or by the order of the Chairman.

49. (1) After the expiry of the periods respectively prescribed under clause (i) of sub-section (2) of section 45, and by section 46, and clause (b) of sub-section (2) of section 48 in respect of any improvement scheme or re-housing scheme, the Board shall consider any objection, representation and statement of dissent received thereunder, and after hearing all persons making any such objection, representation or dissent who may desire to be heard, the Board may, either abandon the scheme or apply to the Provincial Government for sanction to the scheme, with such modifications (if any), as the Board may consider necessary.

Abandonment of improvement scheme, or application to Provincial Government to sanction it.

¹The word within square brackets was substituted for the word "sixty" by the Town Improvement (Amendment) Ordinance, 1958 (E. P. Ord. No. LXIX of 1958), section 5.

[E. B. Act XIII]*(Sections 50—51A.)*

(2) Every application submitted under sub-section (1) shall be accompanied by—

- (a) a description of, and full particulars relating to, the scheme, and complete plans and estimates of the cost of executing the scheme ;
- (b) a statement of the reasons for any modifications made in the scheme as originally framed ;
- (c) a statement of objections (if any), received under section 45 ;
- (d) any representation received under section 46 ;
- (e) a list of the names of all persons (if any) who have dissented, under clause (b) of sub-section (2) of section 48 from the proposed acquisition of their land or from the proposed recovery of a betterment fee and a statement of the reasons given for such dissent ; and
- (f) a statement of the arrangements made or proposed by the Board for the re-housing of persons of the poorer and working classes who are likely to be displaced by the execution of the scheme.

1* * * *

Power to sanction or reject improvement scheme.

50. The Provincial Government may sanction, either with or without modification, or may refuse to sanction, any improvement scheme or re-housing scheme submitted to it under section 49.

Notification of sanction to improvement scheme.

51. (1) Whenever the Provincial Government sanctions an improvement scheme or re-housing scheme, it shall announce the fact by notification, and the Board shall forthwith proceed to execute the scheme.

(2) The publication of a notification under sub-section (1), in respect of any scheme, shall be conclusive evidence that the scheme has been duly framed and sanctioned.

Savings.

2[51A. (1) When any improvement or rehousing scheme or rebuilding scheme has been framed for execution in any area outside the Municipality, the provisions of sections 45 to 51 shall not apply.

¹Sub-section (3) of section 49 was omitted by the Town Improvement (Amendment) Ordinance, 1958 (E. P. Ord. No. LXIX of 1958), section 6.

*Sections 51A, 51B and 51C were added by section 7, *ibid.*

of 1953.]

(Sections 51B—52.)

(2) Any improvement or rehousing scheme or rebuilding scheme proposed to be executed in an area outside Municipal limits and estimated to cost Rupees five lakhs or more framed by the Board, shall be submitted to Provincial Government for sanction.

Sanction to improvement scheme of Rs. 5 lakhs or more outside the Municipal limit.

(3) The Provincial Government may sanction such improvement or rehousing or rebuilding scheme either with or without modification, or may refuse to sanction but in either case it shall communicate its decision to the Board within sixty days from the date of receipt of the scheme from the Board.

(4) Whenever the Provincial Government sanctions, with or without modifications, any improvement or rehousing scheme or rebuilding scheme outside the Municipal limits it shall announce the fact by a notification, and the Board shall forthwith proceed to execute the scheme.

(5) The publication of a notification under sub-section (4) in respect of any scheme outside the Municipal area shall be conclusive evidence that the scheme has been duly framed and sanctioned.

51B. The provisions of sections 45 to 51 of the Act shall not apply to any scheme inside the Municipality estimated to cost less than Rupees five lakhs.

Savings.

51C. (1) Whenever the Board frames any improvement scheme or rehousing scheme or rebuilding scheme of the value of less than Rupees five lakhs for execution within or outside the Municipal area it shall announce the fact by a notification and shall forthwith proceed to execute the same.

Improvement scheme of less than Rs. 5 lakhs either within or outside the Municipality.

(2) The publication of a notification under sub-section (1) in respect of any scheme either within or outside the Municipal area shall be conclusive evidence that the scheme has been duly framed.

(3) At any time after any improvement scheme or rehousing scheme has been sanctioned by the Provincial Government and before it has been carried into execution, the Board may alter it:

Alteration of improvement scheme after sanction.

Provided as follows:—

(a) if any alteration is estimated to increase the estimated net cost of executing a scheme by more than five per cent. of such cost, such alteration shall not be made without the previous sanction of the Provincial Government;

[E. B. Act XIII

(Sections 53—55.)

- (b) if any alteration involves the acquisition, otherwise than by agreement, of any land the acquisition of which has not been sanctioned by the Provincial Government, the procedure prescribed in the foregoing sections of this Chapter shall, so far as applicable, be followed, as if the alteration were a separate scheme ;
- (c) if owing to the changes made, in the course of a scheme, any land not previously liable under the scheme to the payment of a betterment fee, becomes liable to such payment, the provisions of sections 45, 48 and 49 shall, so far as they are applicable, be followed in any such case.

Combination
of improve-
ment scheme.

53. Any number of areas in respect of which improvement schemes or re-housing schemes have been, or are proposed to be, framed, may, at any time, be included in one combined scheme.

Width of
streets.

54. No street laid out or altered by the Board shall be of less width than—

- (a) forty feet, if the street be intended for vehicular traffic, or
- (b) twenty feet, if the street be intended for pedestrian traffic only:

Provided as follows:—

- (i) the width of an existing street need not be increased to the minimum required by this section, if the Board consider it impracticable to do so; and
- (ii) nothing in this section shall be deemed to prevent the Board from laying out service passages for sanitary purposes of any width less than twenty feet.

Transfer to
Board, for
purposes of
improvement
scheme, of
building or
land vested
in a Municipality,
Union Board
or District
Board.

55. (1) Whenever any building, or any street, square or other land, or any part thereof, which—

- (a) is situated in the Municipality and is vested in or
- (b) is situated in any part of the District Board or any Union Board in which this Act is for the time being in force, and is vested in that District Union Board,

is within the area of any improvement scheme or re-housing scheme and is required for the purpose of such scheme, the Board shall give notice accordingly to the Chairman of the

of 1953.]

(Section 56.)

Municipality or of the District Board, or to the President of the Union Board, as the case may be, and such building, street, square, other land or part, shall thereupon vest in the Board.

(2) Where any street or square, or any part thereof vests in the Board under sub-section (1), no compensation shall be payable by the Board to the Municipality, the District or the Union Board, in respect of such street, square or part.

(3) Where any land, not being a street or square, vests in the Board under sub-section (1), compensation in respect of such land shall not be payable by the Board except to the District or the Union Board, as the case may be.

(4) Where any building vests in the Board under sub-section (1), compensation for such building shall be payable by the Board to the Municipality, the District or the Union Board, as the case may be.

(5) If any question or dispute arises—

(a) whether compensation is payable under any of the sub-sections (3) and (4), or

(b) as to the amount of the compensation paid or proposed to be paid under sub-section (3) or sub-section (4), or

(c) whether any building or street, or square or other land, or any part thereof is required for the purposes of the scheme,

the matter shall be referred to the Provincial Government whose decision shall be final.

Explanation.—For the purposes of this section, “building” means only the structure, and does not include any land other than the land on which it actually stands; and “compensation” means a sum equal to the market value of the land or building on the date of the service of the notice under sub-section (1).

56. (1) Whenever any street or square or part thereof which is not vested in the Board or in the Municipality, in any District or Union Board, is required for executing any improvement scheme or re-housing scheme, the Board shall cause to be affixed in a conspicuous place in or near such street, square or part, a notice signed by the Chairman, and (a) stating the purpose for which the street, square or part is required, and (b) declaring that the Board will, on or after a date to be specified in the notice, take over charge of such street, square or part from the owner thereof; and shall simultaneously send a copy of such notice to the owner of such street, square or part.

Transfer of private street or square to Board for purposes of improvement scheme.

[E. B. Act XIII]

(Sections 57, 58.)

(2) After considering and deciding all objections (if any) received in writing before the date so specified, the Board may take over charge of such street, square or part from the owner thereof; and the same shall thereupon vest in the Board.

(3) When the Board alter or close any street or square or part thereof which has vested in them under sub-section (2), they shall pay reasonable compensation to the previous owner for the loss of his rights therein.

(4) If the alteration or closing of any such street, square or part causes damage or substantial inconvenience to owners of property adjacent thereto, or to residents in the neighbourhood, the Board—

- (i) shall forthwith provide some other reasonable means of access for the use of persons who were entitled to use such street, square, or part as a means of access to any property or place, and
- (ii) if the provision of such means of access does not sufficiently compensate any such owner or resident for such damage or inconvenience, shall also pay him reasonable compensation in money.

Provision of drain or water-work to replace another situated on land vested in the Board under section 55 or section 56.

57. (1) When any building or any street, square or other land or any part thereof has vested in the Board under section 55 or section 56, no drain or water-work therein shall vest in the Board until another drain or water-work (as the case may be), if required, has been provided by the Board to the satisfaction of the Municipality or the Union or District Board in whose area the drain or water-work is situated, in place of the former drain or water-work.

(2) If any question or dispute arises as to whether another drain or water-work is required, or as to the sufficiency of any drain or water-work provided by the Board, under sub-section (1), the matter shall be referred to the Provincial Government whose decision shall be final.

Bar to application of certain section of the Bengal Municipal Act, 1932.

58. (1) The Municipality, or the District or the Union Board shall not be responsible for the maintenance and repair or for the watering and cleaning of any street, square or garden which is vested in the Board under section 55.

(2) Section 222 of the Bengal Municipal Act, 1932, shall not apply to any street, square or garden which is vested in the Board. Ben. XV 1932

(3) Section 230 of the Bengal Municipal Act, 1932, shall not apply when any drain, pavement or street referred to therein is opened or broken by the Board or when any public street is under construction by the Board. Ben. XV 1932

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(Sections 59—62.)

59. Whenever the Board allow any street vested in them to be used for public traffic,—

Repair and watering of streets vested in the Board.

- (a) they shall, as far as practicable, keep the street in good repair and do all things necessary for the safety and convenience of persons using it, and
- (b) they shall cause the street to be watered, if they consider it necessary to do so for the public convenience.

60. Whenever any drain in, or the pavement or surface of, any street vested in the Board is opened or broken up by the Board for the purpose of carrying on any work,

Guarding and lighting when street vested in the Board is opened or broken up or when street is under construction and speedy completion of work.

or whenever the Board allow any street which they have under construction to be used for public traffic,

the Board shall cause the place to be fenced and guarded and to be sufficiently lighted during the night, and shall take proper precautions for guarding against accident by shoring up and protecting adjoining buildings,

and shall, with all convenient speed, complete the said work, fill in the ground, and repair the said drain, pavement or surface, and carry away the rubbish occasioned thereby or complete the construction of the said street, as the case may be.

61. (1) When any work referred to in section 60 is being executed by the Board in any public street vested in them, or when any other work which may lawfully be done is being executed by the Board in any street vested in them, the Board may direct that such street shall, during the progress of such work, be either wholly or partially closed to traffic generally or to traffic of any specified description.

Prevention or restriction of traffic in street vested in the Board during progress of work.

(2) When any such direction has been given, the Board shall set up in a conspicuous position in or near the street an order prohibiting traffic to the extent so directed, and shall fix such bars, chains or posts across or in the street as they may think proper for preventing or restricting traffic therein, after notifying in local newspapers their intention to do so.

62. (1) When any work is being executed by the Board in any public street vested in them, the Board shall, so far as may reasonably be practicable, make adequate provision for—

Provision of facilities and payment of compensation, when work is executed by Board in public street vested in them.

- (a) the passage or diversion of traffic ;
- (b) securing access to all premises approached from such street; and
- (c) any drainage, water-supply or means of lighting which is interrupted by reason of the execution of the work.

[E. B. Act XIII]

(Section 63.)

(2) The Board shall pay reasonable compensation to any person who sustains special damage by reason of the execution of any such work.

Power of
Board to
turn or close
public street
or square
vested in
them.

63. (1) The Board may—

- (a) turn, divert, discontinue the public use of, or permanently close, any public street vested in them, or any part thereof, or
- (b) discontinue the public use of, or permanently close any public square vested in them, or any part thereof.

(2) Whenever the Board discontinue the public use of, or permanently close, any public street vested in them, or any part thereof, they shall pay reasonable compensation to every person who was entitled, otherwise than as a mere licensee, to use such street or part as a means of access and has suffered damage from such discontinuance or closing.

(3) Whenever the Board discontinue the public use of, or permanently close, any public square vested in them, or any part thereof, they shall pay reasonable compensation to every person—

- (a) who was entitled, otherwise than as a mere licensee, to use such square or part as a means of access, or
- (b) whose immovable property was ventilated by such square or part,

and who has suffered damage,—

- (i) in case (a), from such discontinuance or closing, or
- (ii) in case (b), from the use to which the Board have put such square or part.

(4) In determining the compensation payable to any person under sub-section (2) or sub-section (3), the Board shall make allowance for any benefit accruing to him from the construction, provision or improvement of any other public street or square at or about the same time that the public street or square or part thereof, on account of which the compensation is paid, is discontinued, or closed.

(5) When any public street or square vested in the Board, or any part thereof, is permanently closed under sub-section (1), the Board may sell, or lease so much of the same as is no longer required.

of 1953.]

(Section 64.)

64. (1) If any question or dispute arises—

Reference of
disputes to
Tribunal.

- (a) between the Board and the previous owner of any street or square or part thereof which was vested in the Board under section 56 and has been altered or closed by them, as to the sufficiency of the compensation paid or proposed to be paid under sub-section (3) of that section, or
- (b) between the Board and any person who was entitled, otherwise than as a mere licensee, to use as a means of access any street or square or part thereof which has been vested in the Board under section 56,—
 - (i) as to whether the alteration or closing of such street, square or part causes damage or substantial inconvenience to owners of property adjacent thereto or to residents in the neighbourhood, or
 - (ii) as to whether the other means of access provided or proposed to be provided under sub-section (4) of the said section 56 are reasonably sufficient, or
 - (iii) as to the sufficiency of any compensation paid or proposed to be paid under the said sub-section (4), or
- (c) between the Board and any person, as to the sufficiency of any compensation paid or proposed to be paid to him under section 62, section 63 or section 72,

the matter shall be determined by the Tribunal, if referred to it either by the Board or by the claimant, within a period of three months from—

in case (a) or case (b)—the date on which the street or square or part thereof was altered or closed by the Board, or

in case (c)—the date on which the said person was informed of the decision of the Board fixing the amount of compensation to be paid to him;

and the determination of the tribunal shall be final.

(2) If a reference to the Tribunal be not made within the period prescribed by sub-section (1), the decision of the Board shall be final.

(3) For the purpose of determining any matter referred to it under sub-section (1), the Tribunal shall have all the

[E. B. Act XIII]*(Sections 65, 66.)*

powers with regard to witnesses, documents and costs which it would have if the Land Acquisition Act, 1894, as modified by section 81 of this Act, were applicable to the case. Act I of 1894.

Taking over
of laid out
or altered
streets by
Municipality.

65. Whenever the Board are satisfied—

- (a) that any street laid out or altered by the Board has been duly levelled, paved, metalled, flagged, channelled, sewered and drained in the manner provided in the plans sanctioned by the Provincial Government under section 50,
- (b) that such lamps, lamp-posts and other apparatus for the lighting of such street as ought to be provided by the Board, have been so provided, and
- (c) that water and other sanitary conveniences ordinarily provided in a Municipality have been duly provided in such street,

the Board shall pass a resolution to that effect and shall call upon the Municipality to take over such street as and from the date fixed by such resolution for the purpose.

Vesting in
Municipality
of streets laid
out or altered,
and open
spaces pro-
vided by the
Board under
an improve-
ment scheme.

66. (1) If the Municipality, on being called upon to take over any street under section 65, are satisfied that such street has been completed in accordance with the plans sanctioned by the Provincial Government under section 50, they shall, after informing the Board of their intention to do so, by written notice affixed in some conspicuous position in such street, declare the street to be a public street and the street shall thereupon vest in the Municipality and shall thenceforth be maintained, kept in repair, lighted and cleansed by the Municipality:

Provided that the Municipality may agree to take over any street subject to any conditions or the execution of further works by the Board in the said street.

(2) If the Municipality fail to take over any street within a period of six months from the date when called upon to do so by the Board under section 65 and fail to inform the Board of their reason for non-compliance with the Board's resolution, the street shall automatically vest in the Municipality as if all the procedure under sub-section (1) had been fulfilled.

(3) When any open space for purposes of ventilation or recreation has been provided by the Board in executing any improvement scheme or rehousing scheme, it shall, on completion, be transferred to the Municipality by a resolution of the Board, and shall thereupon vest in, and be maintained at the expense of the Municipality :

of 1953.]

(Sections 67—69.)

Provided that the Municipality may require the Board before any such open space is so transferred, to enclose, level, turf, drain and lay out such space and provide foot-paths therein, and, if necessary, to provide lamps and other apparatus for lighting it.

(4) If any difference of opinion arises between the Board and the Municipality in respect of any matter referred to in the foregoing provisions of this section, the matter shall be referred to the Provincial Government whose decision shall be final.

67. If this Act or any provision thereof be extended by notification under sub-section (2) of section 1 to any area outside the Municipality, the street laid out or altered, and open spaces provided by the Board in such area shall, until such time as the Bengal Municipal Act, 1932, is extended to that area under sections 161 and 162, continue to vest in the Board, and shall thereafter vest in and be taken over by the Municipality in accordance with the provisions of sections 65 and 66.

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1932.

Application of sections 65 and 66 to areas outside the Municipality.

68. Notwithstanding anything contained in sections 65 and 66, or section 67, the Board may retain any service passage which they have laid out for sanitary purposes and may enter into an agreement with the Municipality, or any other person for the supervision, repair, lighting and general management of any passage so retained.

Power of Board to retain service passages.

69. (1) The Board may, from time to time in regard to any area—

Plans or public streets or open spaces

(a) within the Municipality, or

(b) in the neighbourhood of the Municipality to which the Act extends,

make plans of proposed public streets or open spaces showing the direction of such streets, the street alignment and building line (if any) on each side of them, their intended width, the location of proposed open spaces and such other details as may appear desirable.

(2) When a plan of a proposed public street or open space has been made under sub-section (1), the Board shall prepare a notice stating—

(a) the fact that such a plan has been made;

(b) particulars of the land (shown in such plan)—

(i) through which the proposed public street will pass, and

(ii) out of which the open space is formed;

[E. B. Act XIII]

(Section 70.)

- (c) the place at which the said plan and particulars may be seen at reasonable hours; and
 - (d) the period (which shall be not less than sixty days) within which objections to the said plan may be submitted to the Board.
- (3) The Board shall—
- (i) cause the said notice to be published weekly for two consecutive weeks in the *Official Gazette* and in local newspapers, and in such other manner as the Board may direct;
 - (ii) forward a copy of the said notice by registered post to any person who, according to the records of the Municipality or Survey and Settlement records, appears to have an interest in any land or building which is likely to be affected in any way by the proposed public street or open space;
 - (iii) forward a copy of the said notice and of the plan to which it relates to the Chairman of the Municipality, and, if any area in the neighbourhood of the Municipality is included in such plan, to the Chairman of the District Board or the President of the Union Board concerned; and
 - (iv) cause copies of the said notice and plan to be delivered to any applicant on payment of such fee as may be prescribed by rule made under section 152.

Consideration of objection to plans for public streets or open spaces.

70. (1) After the expiry of the period prescribed in clause (d) of sub-section (2) of section 69, the Board shall consider—

- (a) all objections in writing received from any person affected by the proposed public street or open space contemplated by such plan, and
- (b) any representation in regard to such street or open space made to the Board by any of the authorities mentioned in clause (iii) of sub-section (3) of section 69;

and the Board may thereupon either withdraw the plan or apply to the Provincial Government for sanction thereto with such modifications (if any) as the Board may consider necessary.

(2) If the Board apply for sanction under sub-section (1), they shall simultaneously forward to the Provincial Government a full statement of all objections and representations made to them under the said sub-section.

of 1953.]

(Sections 71, 72.)

(3) When a plan of a proposed public street or open space has been submitted to the Provincial Government under sub-section (1), the Board shall cause notice of the fact to be published for two consecutive weeks in the *Official Gazette* and in local newspapers.

(4) The Provincial Government may sanction, either with or without modification, or may refuse to sanction, any plan of a proposed public street or open space submitted to it under sub-section (1).

71. Whenever the Provincial Government sanctions a plan of a proposed public street or open space, it shall announce the fact by notification, and the publication of such notification shall be conclusive evidence that the plan has been duly made and sanctioned; and the proposed public street or open space to which such notification refers shall be deemed to be a projected public street or open space, and shall be so deemed until—

Notification of sanctioned plan of public street.

(a) such street or open space has been declared, under section 66, to be a public street or open space, or

(b) the said notification has been cancelled :

Provided that such cancellation shall not affect the validity of any action taken by the Board in pursuance of the said notification.

72. (1) If any person desires to erect, re-erect or add to any wall (exceeding ten feet in height) or building which falls within a street alignment or building line of a projected public street or within the area of a projected open space as shown in any plan sanctioned by the Provincial Government under sub-section (4) of section 70, he shall submit an application in writing to the Chairman for permission so to do;

Erection of wall of building within a street alignment or building line.

Provided as follows:—

No such application shall be necessary for permission to erect or re-erect, between a building line and the street alignment,—

(a) a porch or balcony, or

(b) along not more than one-third of the frontage, an out-house not exceeding fifteen feet in height.

(2) The Chairman shall in no case refuse an application submitted under sub-section (1) if the applicant executes an agreement binding himself and his successors-in-interest to remove, without compensation, any wall or building to which that application relates, in the event of the Board—

(a) deciding (at any time after an improvement scheme has been sanctioned under section 50 for an area within which such building or wall is situated) that the said wall or building, or any portion thereof, ought to be removed, and

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(Section 72.)

- (b) calling upon the owner for the time being, by written notice, to remove the same within a time (not being less than sixty days from the date of the service of the notice) to be specified in the said notice.

(3) If the Chairman does not, within forty-five days after the receipt of an application under sub-section (1), grant or refuse to grant the permission applied for, such permission shall be deemed to have been granted.

(4) If the Chairman refuses permission to any person to erect, re-erect or add to any wall or building as aforesaid which falls—

- (i) within the street alignment, or
- (ii) between the street alignment and the building line of a projected public street, or
- (iii) within the area of a projected open space,

the owner of the land on which it was sought to erect, re-erect or add to such wall or building, may call upon the Board, at any time within three months from the date of such refusal either—

- (a) to pay him compensation for any damage sustained by him in consequence of such refusal, or
- (b) to acquire so much of his land as falls within the street alignment, or between the street alignment and the building line, or within the open space, as the case may be;

and the Board shall thereupon—

in case (a), make full compensation to the said owner for any damage which he may be found to have sustained in consequence of such refusal, and in case (b), forthwith take steps to acquire the said land:

Provided that, in the case of such land as falls within street alignment only, it shall be optional with the Board to acquire the same in lieu of paying compensation therefor.

(5) An appeal, if preferred within sixty days of the order of refusal under sub-section (4), shall lie to the Board against such order, and the decision of the Board on such appeal shall be final.

of 1953.]

(Sections 73, 74.)

¹[73.(1) As soon as may be after the provisions of the Act comes into force, the Board shall prepare a Master Plan for the area within its jurisdiction indicating the manner in which it proposes that land should be used (whether by carrying out thereon of development or otherwise) and the stages by which any such development should be carried out.

Preparation of Master Plan by the Board.

(2) The Master Plan shall include such maps and such descriptive matter as may be necessary to illustrate the proposals aforesaid with such degree of particularity as may be appropriate, between different parts of the area, and any such plan may, in particular, define the sites of proposed roads, public and other buildings and works, or fields, parks, pleasure-grounds and other open spaces or allocate areas of land for use for agricultural, residential, industrial or other purposes of any class specified in the Master Plan.

(3) The Provincial Government shall, within one month from the receipt¹ of the Master Plan from the Board, publish the same in the *Official Gazette*.

(4) Any person objecting to the plan or part thereof shall file objection with the Provincial Government within sixty days from the date of the publication of the Plan.

(5) The Provincial Government after considering the objections that may be filed, shall approve the Master Plan within four months from the date of publication either with or without modification].

²[74.(1) When the Provincial Government approves the Master Plan submitted under section 73, it shall announce the fact by notification and the publication of such notification shall be conclusive evidence that the Master Plan has been duly made and approved, and thereafter it shall be unlawful for any person to use any land for any purposes other than that laid down in the Master Plan, unless he has been permitted to do so under section 75.

Publication of Master Plan.

(2) The Board may, from time to time, with the approval of the Provincial Government and the Provincial Government may at any time, amend or alter any specific provision of the Master Plan. Any such amendment or alteration shall be published in the *Official Gazette*.

¹This section was substituted for the original section 73 by the Town Improvement (Amendment) Ordinance, 1958 (E. P. Ord. No. LXIX of 1958), section 8.

²This section was substituted for the original section 74 by section 9, *ibid.*

[E. B. Act XIII]

(Sections 75—77.)

(3) All future developments and construction, both public and private, shall be in conformity with the Master Plan or with the amendment thereof.

(4) The Master Plan, or an amendment thereof, shall neither before nor after it has been approved, be questioned in any legal proceedings whatsoever and shall become operative on the day it is approved by the Provincial Government and published in the *Official Gazette*].

Permission for use of land contrary to the Master plan.

75. (1) If any person desires to use any land for any purpose other than that laid down in the ¹[Master] plan approved ²[under sub-section (5) of section 73] he may apply in writing to the Chairman for permission so to do.

(2) If the Chairman refuses permission to any person, such person may, within sixty days of the Chairman's refusal, appeal to the Board against such refusal.

(3) The decision of the Board on any appeal under sub-section (2) shall be final.

No compensation payable for restricted use of land.

76. No compensation shall be payable to any person owing to the restricted use to which his land may be put under sections 73 and 74.

Plans for erection of buildings under Bengal Act XV of 1932 are to be submitted to the Chairman for sanction.

77. (1) All plans for the erection of buildings approved under the provisions of the Bengal Municipal Act, 1932, shall be submitted to the Chairman for sanction.

(2) The Chairman may refuse the sanction if the purpose for which the proposed building is to be used is contrary to the provisions of section 73, or if the proposed elevation of the building is unsuitable for the locality or is likely to deteriorate the value of adjoining lands, or on any other reasonable grounds.

(3) If the Chairman refuses sanction under sub-section (2), he shall communicate the reasons for such refusal to the Municipality, and the Municipality shall then send a copy thereof to the owner of the site to which the plan relates.

(4) The owner of such site may, within a period of three months from the date of the Chairman's refusal, appeal to the Board, and the Board's decision thereon shall be final.

¹The word within square brackets was substituted for the word "Zone" by the Town Improvement (Amendment) Ordinance, 1958 (E. P. Ord. No. LXIX of 1958), section 10.

²The words, brackets and figures within square brackets were substituted for the words and figures "under section 74", *ibid*.

of 1953.]

(Sections 78—81.)

(5) The Municipality shall refuse to grant permission for erection of any structures which have not been sanctioned by the Chairman or the Board under this section.

¹[(6) The Chairman of the Dacca Improvement Trust or any other officer of the said Trust from such date as the Provincial Government may, by notification, declare, shall be deemed to be the only “authorised officer” within the meaning of clause (a) of section 2 of the East Bengal Building Construction Act, 1952, which Act shall be deemed to be modified to that extent, so far as it relates to the area within the jurisdiction of the said Trust.]

CHAPTER IV.

ACQUISITION AND DISPOSAL OF LAND.

Acquisition by Agreement.

78. The Board may enter into an agreement with any person for the acquisition from him by purchase, lease, or exchange, of any land or any interest in such land, which the Board are authorised to acquire.

Power to purchase or lease by agreement.

Compulsory Acquisition.

Act I of 1894. 79. The Board may, with the previous sanction of the Provincial Government, acquire land under the provisions of the Land Acquisition Act, 1894, for carrying out any of the purposes of this Act.

Power to acquire land under the Land Acquisition Act, 1894.

Act I of 1894. 80. A Tribunal shall be constituted, as provided in section 82 for the purpose of performing the functions of the Court in reference to the acquisition of land for the Board under the Land Acquisition Act, 1894.

Tribunal to be constituted.

Act I of 1894. 81. For the purpose of acquiring land under the Land Acquisition Act, 1894, for the Board,—

Modification of the Land Acquisition Act, 1894.

(a) the Tribunal shall (except for the purposes of section 54 of that Act) be deemed to be the Court, and the President of the Tribunal shall be deemed to be the Judge, under the said Act;

(b) the said Act shall be subject to the further modifications indicated in the Schedule;

¹This sub-section was substituted for the former sub-section (6) added by the Town Improvement (Amendment) Ordinance, 1958 (E. P. Ord. No. LXIX of 1958), section 11, by the Town Improvement (Amendment) Ordinance, 1959 (E. P. Ord. No. XXII of 1959), section 2.

[E. B. Act XIII]

(Section 82.)

- (c) the President of the Tribunal shall have power to summon and enforce the attendance of witnesses, and to compel the production of documents, by the same means, and (so far as may be) in the same manner, as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908; and ^{V of 1908.}

- (d) the award of the Tribunal shall be deemed to be the award of the Court under the said Act,

¹[and subject to the provision of section 88, shall be final].

Constitu-
tion of
Tribunal.

82. ²[(1) The said Tribunal shall consist of one President and two members:

Provided that the Provincial Government may, at any time, direct that the Tribunal shall consist of the President only:

Provided further that when the Tribunal has not been constituted under this sub-section, the Provincial Government may direct that the land required for purposes of the Board shall be acquired under any law for the time being in force.

(1a) A person shall not be qualified for appointment as the President unless he—

- (a) has been for at least 10 years, an Advocate or a Pleader of a High Court, or of two or more High Courts; or
- (b) is or was a member of the Civil Service of Pakistan of at least 10 years' standing, who has for at least 3 years served as, or exercised the power of, a District Judge; or
- (c) has, for at least 10 years, held a judicial office in Pakistan.

(1b) A person shall not be qualified for appointment as a Member of Tribunal unless he—

- (a) is or was a member of the Judicial Branch of the Provincial Civil Service and has served for at least 2 years as a Subordinate Judge; or

¹The words, figures, comma and the full-stop within square brackets were added, after substituting a comma for the full-stop at the end of clause (d), by the Town Improvement (Amendment) Ordinance, 1958 (E. P. Ord. No. LXIX of 1958), section 12.

²Sub-sections (1), (1a) and (1b) were substituted for the original sub-section (1) by the Town Improvement (Amendment) Ordinance, 1958 (E. P. Ord. No. LXIX of 1958), section 13.

of 1953.]

(Sections 83, 84.)

(b) has been, for at least 5 years, an Advocate of a High Court; or

(c) has been, for at least 10 years, a Pleader of any other Court].

(2) The President and the two members of the Tribunal shall be appointed by the Provincial Government:

Provided that no person shall be eligible for appointment as President or member of the Tribunal if he is a Trustee or is, for any of the reasons mentioned in section 10, disqualified for appointment as a Trustee.

(3) The term of office of the President or member of the Tribunal shall be for a period of three years, and he shall, subject to the proviso to sub-section (2), be eligible for re-appointment at the end of that term.

(4) The Provincial Government may, on the ground of incapacity or misbehaviour, or for any other good and sufficient reason, cancel the appointment of the President or member of the Tribunal.

(5) When the President or member of the Tribunal for any reason ceases to hold office or is temporarily absent in consequence of illness or any other unavoidable cause, the Provincial Government shall forthwith appoint a fit person in his place.

(6) All appointments made under this section shall be published by notification.

83. The President of the Tribunal shall be entitled to receive such salary as may be fixed by the Provincial Government; and a member of the Tribunal shall be entitled to such remuneration as may be prescribed. Remuneration of the President.

84. (1) The President of the Tribunal shall, from time to time, prepare a statement showing— Employee of Tribunal.

(a) the number and grades of the employees whom he considers should be maintained for carrying on the business of the Tribunal,

(b) the amount of the salary to be paid to each such employee, and

(c) the contributions payable under section 160 in respect of each such employee.

(2) The President of the Tribunal shall, from time to time, make rules—

(i) for regulating the grant of leave of absence, leave allowances and acting allowances to the employees of the Tribunal ; and

[E. B. Act XIII*(Sections 85—87.)*

- (ii) for establishing and maintaining a provident or annuity fund, for compelling all or any of the employees of the Tribunal (other than any servant of the Government in respect of whom a contribution is paid under section 160) to contribute to such fund, at such rates and subject to such conditions, as may be prescribed by such rules, and, with the sanction of the Board for supplementing such contributions out of the funds of the Board:

Provided that a servant of the Government employed by the Tribunal shall not be entitled to leave or leave allowances otherwise than as may be prescribed by the conditions of his service under the Government relating to transfer to foreign service.

(3) All statements prepared under sub-section (1), and all rules made under sub-section (2), shall be subject to the previous sanction of the Provincial Government.

(4) Subject to any directions contained in any statement prepared under sub-section (1) and any rules made under sub-section (2), and for the time being in force, the power of appointing, promoting and granting leave to employees of the Tribunal, and the power of reducing, suspending, dismissing or otherwise punishing them, shall vest in the President of the Tribunal.

**Payments by
Board on
account of
Tribunal.**

85. The salary of the President, the remuneration of the members, and the salaries, leave allowances, and acting allowances of the employees of the Tribunal shall be paid by the Board to the President of the Tribunal for distribution.

**Power to
make rules
for Tribunal.**

86. (1) The President of the Tribunal may, from time to time with the previous sanction of the Provincial Government, make rules, not repugnant to the Code of Civil Procedure, 1908, for the conduct of business by the Tribunal.

**V of
1908.**

(2) All such rules shall be published by notification.

**Award of
Tribunal
how to be
enforced.**

87. (1) For the purpose of determining the award to be made by the Tribunal under the Land Acquisition Act, 1894, as amended by this Act,—

**Act I of
1894.**

- (a) if there is any disagreement as to the measurement of land, or the amount of compensation or costs to be allowed, the opinion of the majority of the members of the Tribunal shall prevail ;
- (b) questions relating to the determination of the persons to whom compensation is payable, or the apportionment of compensation, may be tried and

of 1953.]

(Sections 88, 89.)

decided in the absence of the members, if the President of the Tribunal considers their presence unnecessary; and when so tried and decided, the decision of the President shall be deemed to be the decision of the Tribunal; and

- (c) notwithstanding anything contained in the foregoing clauses, the decision on all questions of law and procedure shall rest solely with the President of the Tribunal.

(2) Every award of the Tribunal and every order made by the Tribunal for the payment of money shall be enforced by the Civil Court of competent jurisdiction, as if it were a decree of that Court.

88. (1) An appeal shall lie to the High Court in any of the following cases, namely :—

Appeal from awards of the Tribunal.

- (a) where the decision is that of the President of the Tribunal sitting alone in pursuance of clause (b) of sub-section (1) of section 87;
- (b) where the decision is that of the Tribunal under section 87, and
 - (i) the President of the Tribunal grants a certificate that the case is a fit one for appeal, or
 - (ii) the High Court grants special leave to appeal :

Provided that the High Court shall not grant such special leave unless the President has refused to grant a certificate under sub-clause (i) and the amount in dispute is five thousand rupees or upwards.

(2) An appeal under clause (b) of sub-section (1) shall only lie on one or more of the following grounds, namely :—

- (i) the decision being contrary to law or to some usage having the force of law ;
- (ii) the decision having failed to determine some material issue of law or usage having the force of law ;
- (iii) a substantial error or defect in the procedure provided by this Act which may possibly have produced error or defect in the decision of the case upon the merits.

89. Subject to the provisions of section 88, the provisions of the Code of Civil Procedure, 1908, with respect to appeals from original decree shall, so far as may be, apply to appeals under the said section.

Procedure in such appeals.

[E. B. Act XIII**(Sections 90—92.)****Execution of orders of Court.**

90. The Civil Court of competent jurisdiction shall, on application made to it, execute any order passed by the High Court on appeal under section 88, as if it were a decree made by itself.

Period of limitation for such appeals.

91. An appeal under section 88 shall be deemed to be an appeal under the Code of Civil Procedure, 1908, within the meaning of Article 156 of the First Schedule to the Limitation Act, 1908.

**V of
1908.
IX of
1908.**

Arbitrator.

¹**[91A.** (1) If the Provincial Government does not constitute a Tribunal in accordance with section 80 and if any person interested in the property acquired under the provisions of this Act does not accept the assessment made under sub-clause (i) of clause (b) of sub-section (5) of section 93A, the Provincial Government may by notification, appoint a Judge of the High Court or a District Judge as an Arbitrator.

(2) The Arbitrator appointed under sub-section (1) shall, for assessment of compensation, follow the principle laid down in sub-clause (i) of clause (b) of sub-section (5) of section 93A.

(3) No appeal shall lie from the award given by the Arbitrator appointed under sub-section (1) of this section.]

Abandonment of Acquisition.**Abandonment of acquisition in consideration of special payment.**

92. (1) In any case in which the Provincial Government has sanctioned the acquisition of land, in any area comprised in an improvement scheme, which is not required for the execution of the scheme, the owner of the land, or any person having an interest therein, may make an application to the Board, requesting that the acquisition of the land should be abandoned in consideration of the payment by him of a sum to be fixed by the Board in that behalf.

(2) The Board may admit such application if it—

(a) reaches them before the time fixed by the Collector, under section 9 of the Land Acquisition Act, 1894, for making claims in reference to the land, and

**Act I of
1894.**

(b) is made by all persons who have interests in the land greater than a lease for years having seven years to run.

¹This section was substituted for the original section 91A inserted by the Town Improvement (Amendment) Ordinance, 1958 (E. P. Ord. No. LXIX of 1958), section 14, by the Town Improvement (Fourth Amendment) Ordinance, 1959 (E. P. Ord. No. LXXVII of 1959), section 2.

of 1953.]

(Section 92.)

(3) If the Board decide to admit any such application, they shall forthwith inform the Collector; and the Collector shall thereupon stay for a period of three months all further proceedings for the acquisition of the land, and the Board shall proceed to fix the sum in consideration of which the acquisition of the land may be abandoned.

Act I of
1894.

(4) Within the said period of three months, or, with the permission of the Board, at any time before the Collector has taken possession of the land under section 16 of the Land Acquisition Act, 1894, the person from whom the Board have arranged to accept the sum so fixed may, if the Board are satisfied that the security offered by him is sufficient, execute an agreement with the Board, either—

(i) to pay the said sum three years after the date of the agreement, or

(ii) to leave the said sum outstanding as a charge on his interest in the land, subject to the payment in perpetuity of interest at such rate not exceeding five *per cent. per annum* as the Provincial Government may fix by notification, and to make the first annual payment of such interest four years after the date of the agreement :

Act I of
1894.

Provided that the Board, may, at any time before the Collector has taken possession of the land under section 16 of the Land Acquisition Act, 1894, accept immediate payment of the said sum instead of an agreement as aforesaid¹.

(5) When any agreement has been executed in pursuance of sub-section (4), or when any payment has been accepted in pursuance of the proviso to that sub-section, in respect of any land, the proceedings for the acquisition of the land shall be deemed to be abandoned.

(6) Every payment due from any person under any agreement executed under sub-section (4) shall be a charge on the interest of that person.

(7) If any instalment of interest payable under an agreement executed in pursuance of clause (ii) of sub-section (4) be not paid on the date on which it is due, the sum fixed by the Board under sub-section (3) shall be payable on that date, in addition to the said instalment.

(8) At any time after an agreement has been executed in pursuance of clause (ii) of sub-section (4), any person may pay off the charge created thereby, with interest, at the rate fixed under the provisions of that clause up to the date of such payment.

[E. B. Act XIII]

(Sections 93, 93A.)

(9) When an agreement in respect of any land has been executed by any person in pursuance of sub-section (4), no suit with respect to such agreement shall be brought against the Board by any other person (except an heir, executor or administrator of the person first aforesaid) claiming to have an interest in the land.

Abandonment of acquisition in other cases.

93. If the Board enter into any agreement with any owner regarding the partial acquisition of any land which they are authorised to acquire under this Act, such land as is not required for the execution of the scheme may be abandoned from acquisition under section 92.

Requisition of property for any scheme.

193A. (1) If in the opinion of the Provincial Government it is expedient or necessary so to do, for the construction or betterment of roads, waterways or any other communications, and the developments of areas for residential, commercial, industrial purpose or for establishment of Parks, playing fields and open space for the relief of congestion in any area to which this Act extends the Provincial Government may, by order in writing, requisition any property for the Board and may make such further order as may appear to the Government necessary or expedient in connection with such requisition:

Provided that no property used by the public for the purpose of religious worship shall be requisitioned by the Provincial Government.

Service order of requisition.

(2) When any order of requisition has been made under the previous sub-section, it shall be served on the owner of the property personally by delivering or tendering it to him or where the owner cannot be found, it shall be served by leaving an authentic copy of the order with some adult male member of the family of such owner, or if no such adult member can be found, the notice may be served by affixing a copy to some conspicuous part of the premises in which he is known to have last resided or carried on business, or personally worked for gain, and also by affixing such copy to some conspicuous part of the requisitioned property.

Possession of requisitioned property.

(3) When the order of the requisition has been served under sub-section (2) in respect of a property the Provincial Government may direct the District Magistrate to take and deliver possession of the property within 2 weeks to the Board, and the Board may use or deal with the property as may appear to it to be expedient.

¹Section 93A was inserted by the Town Improvement (Amendment) Ordinance, 1958 (E. P. Ord. No. LXIX of 1958), section 15.

of 1953.]

(Section 93A.)

(4) (a) The Provincial Government if it thinks fit, acquire any requisitioned property for the Board, and if it proposes to so acquire, the Provincial Government shall direct the District Magistrate to cause a Public Notice to be given at convenient places, or near the property to be acquired, stating that the Government intends to acquire the property for the Board.

Acquisition of requisitioned property.

(b) Such notice shall state particulars of the property to be acquired and shall require all persons interested in the property to appear personally or by agent before the District Magistrate at a time and place therein mentioned (such time not being earlier than 15 days after the date of publication of the notice) and to state the nature of the respective interest in the property, the objections (if any) to the acquisition of the property and particulars of their claims, the compensation for their respective interest.

(c) Notice shall also be served to the above effect on the owner of such property and on all such persons known or believed to be interested therein or to be entitled to act for persons so interested as reside or have agents authorised to receive on their behalf within the revenue district in which the property is situated.

(d) In case any person so interested resides elsewhere and has no such agent, the notice shall be sent to him by a registered post in a letter addressed to him at his last known residence, address or place of business.

(e) Every person required to make or deliver a statement under sub-sections (2), (3) and (4) shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Pakistan Penal Code.

Act XLV of 1860.

(f) The District Magistrate shall after hearing all objections and after making such further enquiry, if any as he thinks necessary, submit the case for the decision of the Provincial Government together with a record of the proceedings held by him and report containing his recommendations on the objections.

(g) The Provincial Government after considering the report made under clause (f) shall make a decision about the acquisition of the requisitioned property and such decision of the Provincial Government shall be final.

(h) The Provincial Government shall then publish in the *Official Gazette* a notice to the effect that the Provincial Government has decided to acquire the requisitioned property for the Board. On and from the beginning of the day on which the notice is so published, the requisitioned property shall vest absolutely in the Board free

[E. B. Act XIII]**(Section 93A.)**

from all encumbrances and the period of such requisition of such property shall end.

(i) For the purpose of enquiries in connection with the acquisition of a requisitioned property for the Board the District Magistrate or an officer authorised by him shall have the power to summon and enforce the attendance of witnesses including the parties interested or any of them and to compel the production of documents by the same means, and (so far as may be) in the same manner as is provided in the case of Civil Court under the Code of Civil Procedure.

Act V of
1908.

(5) Whenever any immovable property is requisitioned or is acquired under the foregoing provisions, compensation shall be paid and the amount of compensation shall be determined in the manner and in accordance with the principles, hereinafter set out, i.e., to say—

(a) Where the amount of compensation can be fixed by agreement it shall be paid in accordance with such agreement;

¹(b) (i) Where no such agreement can be reached the District Magistrate shall assess a compensation for the immovable property on the basis of the market value of such immovable property and he shall give immediate notice of the assessment to the person or persons interested:

Provided that—

³[(i)] The market value of any immovable property for the purposes of this section shall be ²* * * determined in the manner and in accordance with the principles, hereinafter set out, that is to say;—

(a) The market value of any immovable property within the areas to which this Act extends shall be the market value of such property in 1953;

(b) when there has been any transfer of ownership of any such immovable property after 1953

¹This sub-clause was substituted for the former sub-clause (i) by the Town Improvement (Second Amendment) Ordinance, 1959 (E. P. Ord. No. XXXII of 1959), section 3.

²The words, brackets, figures and letters, "the market value of the property on the date of the order of its requisition under sub-section (i) of section 93A to be" were omitted by the Town Improvement (Third Amendment) Ordinance, 1959 (E. P. Ord. No. XLIII of 1959), section 6.

³Sic.

of 1953.]

(Sections 93A, 94.)

but before the Town Improvement (Second Amendment) Ordinance, 1959 came into force the market value of such immovable property shall be the price paid by the owner from whom the property has been requisitioned and acquired under this Act plus 15 *per centum* thereof;

(c) when there is any transfer of ownership of any immovable property after the Town Improvement (Second Amendment) Ordinance, 1959, came into force the market value of such property shall be the average of prices prevailing between 1953 and the date of coming into force of the said Ordinance.

(ii) Any person interested who has not accepted assessment, may by written application move the Tribunal to determine the matter;

(iii) The application shall state the grounds on which objection to assessment is taken:

Provided that every such application shall be made within 6 weeks of the service of the notice by the District Magistrate under clause (b) or within 3 months from the date of the order of assessment, whichever period shall later expire.

(c) At the commencement of the proceedings before the Tribunal, the Board and the person to be compensated shall state what in their respective opinion is a fair amount of compensation.

(6) When any property is requisitioned or acquired under this section the provisions of sections 88 and 91 shall not apply.

¹[(7) The Provincial Government may, by order in the *Official Gazette*, direct that any power conferred or any duty imposed on it by this section shall, in such circumstances and under such condition, if any, as may be specified in the direction, be exercised or discharged by such officer as may be specified.].

Betterment fee.

94. (1) When by the making of any improvement scheme or re—housing scheme, any land in the area comprised in the scheme which is not required for the execution thereof

Payment of
betterment
fee.

¹This sub-section was added by the Town Improvement (Second Amendment) Ordinance, 1959 (E. P. Ord. No. XXXII of 1959), section 3.

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(Sections 95, 96.)

will, in the opinion of the Board, be increased in value, the Board, in framing the scheme, may, in lieu of providing for the acquisition of such land, declare that a betterment fee shall be payable by the owner of the land or any person having an interest therein in respect of the increase in value of the land resulting from the execution of the scheme.

(2) Such betterment fee shall be an amount equal to one-half of the increase in value of the land resulting from the execution of the scheme, and shall be calculated upon the amount by which the value of the land on the completion of the execution of the scheme estimated as if the land were clear of buildings exceeds the value of the land prior to the execution of the scheme estimated in like manner.

Assessment
of better-
ment fee by
Board.

95. (1) When it appears to the Board that an improvement scheme or re-housing scheme is sufficiently advanced to enable the amount of the betterment fee to be determined, the Board shall, by a resolution passed in this behalf, declare that for the purpose of determining such fee the execution of the scheme shall be deemed to have been completed and shall thereupon give notice in writing to every person on whom a notice in respect of the land to be assessed has been served under clause (a) of sub-section (1) of section 48 that the Board propose to assess the amount of the betterment fee payable in respect of such land under section 94.

(2) The Board shall then assess the amount of betterment fee payable by each person concerned after giving such person an opportunity to be heard and such person shall, within three months from the date of receipt of notice in writing of such assessment from the Board, inform the Board by a declaration in writing whether he accepts or dissents from the assessment.

(3) When the assessment proposed by the Board is accepted by the person concerned within the period specified in sub-section (2), such assessment shall be final.

(4) If the person concerned dissents from the assessment made by the Board or fails to give the Board the information required by sub-section (2) within the period specified therein, the matter shall be referred to the Tribunal for determination and award.

Settlement to
betterment
fee by
Tribunal.

96. (1) When the Tribunal has made an award under sub-section (4) of the next preceding section, the President shall sign it and forward it to the Board, and such award shall, subject to the provisions of sub-section (2), be final and conclusive and binding on all persons.

(2) Any person aggrieved by the award made by the Tribunal under sub-section (4) of the next preceding section

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(Sections 97—99.)

may, within 30 days from the date of such award, appeal to the Provincial Government whose decision thereon shall be final.

97. When the amount of all betterment fees payable in respect of land in the area comprised in the scheme has been determined under section 95 or section 96, as the case may be, the Board shall, by a notice in writing to be served on all persons liable to such payment, fix a date by which such payment shall be made; and interest at the rate of five *per cent. per annum* upon any amount outstanding shall be payable from that date.

Board to give notice to persons liable to payment of betterment fee.

98. (1) Any person liable to the payment of a betterment fee may, at his option, instead of making a payment thereof to the Board, execute an agreement with the Board to leave the said payment outstanding as a charge on his interest in the land, subject to the payment in perpetuity of interest at the rate of five *per cent. per annum*, the first annual payment of such interests to be made one year from the date referred to in section 97.

Agreement to make payment of betterment fee a charge on land.

(2) Every payment due from any person in respect of a betterment fee and every charge referred to in sub-section (1) shall, notwithstanding anything contained in any other enactment and notwithstanding the existence of any mortgage or other charge, whether legal or equitable, be the first charge upon the interest of such person in such land.

(3) The provisions of sub-sections (7), (8) and (9) of section 92 relating, in the case of the payments mentioned in that section, to the non-payment of instalments of interest, the paying off of the charge with interest, and the restrictions in respect of suits against the Board shall apply, *mutatis mutandis*, to the payment of the money payable under an agreement made in pursuance of sub-section (1) and of the interest payable in respect thereof.

99. All money payable in respect of any land by any person under agreement executed in pursuance of sub-section (4) of section 92 or by any person in respect of a betterment fee under section 95 or section 96 or by any person under an agreement executed in pursuance of sub-section (1) of section 98 shall be recoverable by the Board (together with interest due up to the date of realization, which shall, in the case of betterment fees under section 95 or section 96 be at the rate of five *per cent. per annum*), from the said person or his successor-in-interest in such land, as a public demand under the Bengal Public Demands Recovery Act, 1913.

Recovery of money.

[E. B. Act XIII]

(Sections 100—102.)

Acquisition on fresh declaration.

Agreement
or payment
not to bar
acquisition
under a fresh
declaration

100. If any land, in respect of which an agreement has been executed or a payment has been accepted in pursuance of sub-section (4) of section 92, or in respect of which the payment of a betterment fee has been accepted in pursuance of sub-section (3) of section 95 or has been made after its determination under section 96, or in respect of which an agreement for such payment has been executed under section 98, be subsequently required for any of the purposes of this Act, the agreement or payment shall not be deemed to prevent the acquisition of the land in pursuance of a fresh declaration published under section 6 of the Land Acquisition Act, 1894.

Act I of
1894.

Disposal of land.

Power to
dispose of
land.

101. (1) The Board may retain, or may let on hire, lease, sell, exchange or otherwise dispose of any land vested in or acquired by them under this Act.

(2) Whenever the Board decide to lease or sell any land acquired by them under this Act from any person, they—

a) shall give notice by advertisement in local newspapers, and

(b) shall offer to the said person, or his heirs, executors or administrators, a prior right to take on lease or to purchase such land, at a rate to be fixed by the Board, if the Board considers that such a right can be given without detriment to the carrying out of the purposes of this Act.

(3) If in any case two or more persons claim to exercise a right offered under clause (b) of sub-section (2) to take on lease or to purchase any land, the right shall be exercisable by the person who agrees to pay the highest sum for the land, not being less than the rate fixed by the Board under that clause, to the exclusion of the others.

CHAPTER V.

Rules.

Power to
Provincial
Government
to make
rules.

102. The Provincial Government may make rules, not inconsistent with the provisions of this Act, for carrying out the purposes of this Act.

of 1953.]

(Section 103.)

In particular, and without prejudice to the generality of the foregoing power, the Provincial Government may make rules for all or any of the following matters, namely :—

- (a) matters relating to elections to the Board not expressly provided for in this Act;
- (b) the period within which a vacancy is to be filled in under section 17;
- (c) the conditions and forms of tenders;
- (d) securities from contractors for the execution of contracts;
- (e) the conditions on which employees of the Board or of the Tribunal may be appointed, reduced, suspended, discharged, removed, dismissed or otherwise punished;
- (f) maintenance and submission of returns, statements, reports, accounts and other records or documents required by this Act and the forms thereof;
- (g) fees in respect of any matter not specifically provided for in this Act;
- (h) the procedure for preferring appeals to the Provincial Government under the provisions of this Act; and
- (i) any other matter in respect of which this Act makes no provision or insufficient provision, and for which provision is, in the opinion of the Provincial Government, necessary, or which is directed to be prescribed.

CHAPTER VI.

FINANCE.

Municipal Contributions.

103. (1) The Municipality shall pay from the Municipal funds to the Board on the first day of each quarter, so long as the Board continue to exist, a sum equivalent to one-half *per cent.* per quarter on the annual value determined under Chapter V of the Bengal Municipal Act, 1932, as it stood on the first day of the last preceding quarter : Contribution from Municipal Funds.

en. Act V of 1932.

Provided as follows:—

If this Act is directed to come into force during a quarter, the amount of the first of such payments shall bear such proportion to the sum payable hereunder as the unexpired portion of that quarter bears to the whole quarter.

(Sections 104—107.)

(2) The payments prescribed by sub-section (1) shall be made in priority to all other payments due from the Municipality, except those referred to in section 107 of the Bengal Municipal Act, 1932.

Ben.
XV o
1932.

Loans.

Power of
Board to
borrow
money.

104. The Board may from time to time borrow, at such rate of interest, and for such period, and upon such terms, as to the time and method of repayment and otherwise, as the Provincial Government may approve, any sum necessary for the purpose of—

(a) meeting expenditure debitable to the capital account under section 137, or

(b) repaying any loan previously taken under this Act.

Loans from
Banks.

105. Whenever the borrowing of any sum has been approved under section 104, the Board may, instead of borrowing such sum or any part thereof from the public, take credit from any Bank, on a cash account to be kept in the name of the Board, to the extent of such sum or part; and, with the previous sanction of the Provincial Government may grant mortgages of all or any property vested in the Board by way of securing the payment of the amount of such credit or of the sums from time to time advanced on such cash account with interest.

Application
of borrowed
money.

106. When any sum of money has been borrowed under section 104 or section 105 for the purpose of meeting particular expenditure or repaying a particular loan, no portion thereof shall be applied to any other purpose without the previous sanction of the Provincial Government.

Form,
signature,
exchange,
transfer and
effect of
debentures.

107. (1) Whenever money is borrowed by the Board on debentures, the debentures shall be in such form as the Board, with the previous sanction of the Provincial Government, may from time to time determine.

(2) All debentures shall be signed by the Chairman and one other Trustee.

(3) The holder of any debenture in any form prescribed under sub-section (1) may obtain in exchange therefor, upon such terms as the Board may from time to time determine, a debenture in any other form so prescribed.

(4) Every debenture issued by the Board shall be transferable by endorsement, unless some other mode of transfer be prescribed therein.

of 1953.]

(Sections 108—112.)

(5) The right to sue in respect of moneys secured by debentures issued by the Board shall vest in the respective holders of the debentures for the time being, without any preference by reason of some of such debentures being prior in date to others.

108. All coupons attached to the debentures issued under this Act shall bear the signature of the Chairman; and such signature may be engraved, lithographed or impressed by any mechanical process.

Signature of coupons attached to debentures.

Act IX of 1872. 109. When any debenture or security issued under this Act is payable to two or more persons jointly, and either or any of them dies, then, notwithstanding anything in section 45 of the Contract Act, 1872, the debenture or security shall be payable to the survivor or survivors of such persons :

Payments to survivors of joint payees.

Provided that nothing in this section shall affect any claim by the representative of a deceased person against such survivor or survivors.

110. Where two or more persons are joint holders of any debenture or security issued under this Act, any one of such persons may give an effectual receipt for any interest or dividend payable in respect of such debenture or security, unless notice to the contrary has been given to the Board by any other of such persons.

Receipt by joint holders for interest or dividend.

111. All payments due from the Board for interest on, or the repayment of, loans, shall be made in priority to all other payments due from the Board.

Priority of payments for interest and repayment of loans.

112. Every loan taken by the Board under section 104 shall be repaid within the period approved by the Provincial Government under that section, and, subject to the provisions of sub-section (2) of section 139, by such of the following methods as may be so approved, namely:—

Repayment of loans taken under section 104.

- (a) from a sinking fund established under section 113 in respect of the loan, or
- (b) by paying equal yearly or half-yearly instalments of principal, or of principal and interest, throughout the said period, or
- (c) if the Board have, before borrowing money on debentures, reserved, by public notice, a power to pay off the loan by periodical instalments and to select by lot the particular debentures to be discharged at particular periods—then by paying such instalments at such periods, or

(Sections 113—115.)

- (d) from money borrowed for the purpose under section 104, clause (b), or
- (e) partly from the sinking fund established under section 113 in respect of the loan, and partly from money borrowed for the purpose under section 104, clause (b).

Establishment and maintenance of sinking funds.

113. (1) Whenever the Provincial Government have approved the repayment of a loan from a sinking fund, the Board shall establish such a fund and shall pay into it in every year, until the loan is repaid, a sum so calculated that, if regularly paid throughout the period approved by the Provincial Government under section 104, it would, with accumulations in the way of compound interest, be sufficient, after payment of all expenses, to pay off the loan at the end of that period.

(2) The rate of interest, on the basis of which the sum referred to in sub-section (1) shall be calculated, shall be such as may be prescribed by the Provincial Government.

Power to discontinue payments into sinking funds.

114. Notwithstanding anything contained in section 113, if at any time the sum standing at the credit of the sinking fund established for the repayment of any loan, is of such amount that, if allowed to accumulate at the rate of interest prescribed under sub-section (2) of that section, it will be sufficient to repay the loan at the end of the period approved by the Provincial Government under section 104, then, with the permission of the Provincial Government, further annual payments into such funds may be discontinued.

Investment of sinking funds.

115. (1) All money paid into any sinking fund shall, as soon as possible, be invested, under the orders of the Board, in—

- (a) Government securities, or
- (b) securities granted by the Central or any Provincial Government, or
- (c) debentures issued by the Board,

in the joint names of the Secretary to the Government of ¹[East Pakistan] in the Finance Department and the Accountant-General of ¹[East Pakistan], to be held by them as Trustees for the purpose of repaying from time to time the debentures issued by the Board.

(2) All dividends and other sums received in respect of any such investment shall, as soon as possible after receipt, be paid into the appropriate sinking fund and invested in the manner prescribed in sub-section (1).

¹The words within square brackets were substituted for the words "East Bengal" by E. P. Ord. XXVIII of 1960, First Schedule.

of 1953.]

(Sections 116—118.)

(3) Any investment made under this section may from time to time, subject to the provisions of sub-section (1), be varied or transposed.

116. The aforesaid Trustees may from time to time apply any sinking fund, or any part thereof, in or towards the discharge of the loan or any part of the loan for which such fund was established; and until such loan is wholly discharged shall not apply the same for any other purpose.

Application of sinking funds.

117. (1) The aforesaid Trustee shall, at the end of every financial year, transmit to the Chairman a statement showing—

Annual statement by Trustees.

- (a) the amount which has been invested during the year under section 115,
- (b) the date of the last investment made previous to the transmission of the statement,
- (c) the aggregate amount of the securities held by them,
- (d) the aggregate amount which has, up to the date of the statement, been applied under section 116 in or towards repaying loans, and
- (e) the aggregate amount already paid into each sinking fund.

(2) Every such statement shall be laid before the Board and published by notification.

118. (1) The said sinking funds shall be subject to annual examination by the Accountant-General, ¹[East Pakistan], who shall ascertain whether the cash and the current value of the securities at credit of such funds are actually equal to the amount which would have accumulated, had investments been regularly made and had the rate of interest as originally estimated been obtained therefrom.

Annual examination of sinking funds.

The Accountant-General may take into consideration any excess accumulation in any one sinking fund towards any deficiency in any other sinking fund.

(2) The Board shall forthwith pay into any sinking fund any amount which the Accountant-General may certify to be deficient, unless the Provincial Government specially sanction a gradual readjustment.

¹The words within square brackets were substituted for the words "East Bengal" by E. P. Ord. XXVIII of 1960, First Schedule.

(Sections 119—122.)

Enforcement of liabilities.

Procedure if Board fail to make any payment or investment in respect of loans.

119. (1) If the Board fail—

- (a) to pay any interest due in respect of any loan taken in pursuance of section 104, or
- (b) to make any payment prescribed by section 112, section 113 or sub-section (2) of section 118, or
- (c) to make any investment prescribed by section 115,

the Accountant-General of ¹[East Pakistan] shall make such payment or set aside and invest such sum as ought to have been invested under the said section 115, as the case may be; and the Chairman of the Municipality shall forthwith pay from the Municipal Funds to the said Accountant-General a sum equivalent to the sum so paid or invested by him; and the Provincial Government may attach the rents and other income of the Board.

(2) Whenever the Chairman of the Municipality has made any payment to the Accountant-General under sub-section (1), the Provincial Government shall reimburse the Municipality out of the rents and income attached under that sub-section, and if such rents and income prove insufficient for that purpose, the Municipality may, with the previous sanction of the Provincial Government, increase the maximum authorised by section 124 of the Bengal Municipal Act, 1932, to such extent as may be necessary for the purpose of making up the deficiency.

Ben. Act
XV of
1932.

Procedure if Chairman of the Municipality fails to make any payment due to Board or Accountant-General.

120. If the Chairman of the Municipality fails to make any payment as required by section 103 or section 119, the Provincial Government may attach the Municipal Funds or any of them; and the Provincial Government may further require the Municipality to increase the maximum authorised by section 124 of the Bengal Municipal Act, 1932, to such extent as may be necessary for the purpose of making such payment.

Ben. Act
XV of
1932.

Payment under section 119 to be a charge on the property of the Board.

121. All moneys paid by the Chairman of the Municipality under sub-section (1) of section 119 and not reimbursed by the Provincial Government under sub-section (2) of that section and all moneys payable under sub-section (1) of section 119 and levied under section 120 shall constitute a charge upon the property of the Board.

Budget estimates.

Estimates of income and expenditure to be laid annually before the Board.

122. (1) The Chairman shall, at a special meeting to be held in the month of February in each year, lay before the Board an estimate of the income and expenditure of the Board for the next ensuing financial year.

¹The words within square brackets were substituted for the words "East Bengal" by E. P. Ord. XXVIII of 1960, First Schedule.

of 1953.]

(Sections 123—126.)

(2) Every such estimate shall make provision for the due fulfilment of all the liabilities of the Board and for the efficient administration of this Act.

(3) Every such estimate shall differentiate capital and revenue funds, and shall be prepared in such form, and shall contain such details, as the Provincial Government or the Board may from time to time direct.

(4) Every such estimate shall be completed and printed, and a copy thereof sent, by post or otherwise, to each Trustee, at least ten clear days before the date of meeting at which the estimate is to be laid before the Board.

123. The Board shall consider every estimate so laid before them, and shall sanction the same, either without alteration or with such alteration as they may think fit. Sanction of Board to estimates.

124. (1) Every such estimate as sanctioned by the Board, shall be submitted to the Provincial Government who may at any time within two months after receipt of the same— Approval of Provincial Government to estimates.

(a) approve the estimate, or

(b) disallow the estimate or any portion thereof, and return the estimate to the Board for amendment.

(2) If any estimate is so returned to the Board, they shall forthwith proceed to amend it, and shall re-submit the estimate, as amended, to the Provincial Government who may then approve it.

125. A copy of every such estimate shall, when approved by the Provincial Government, be sent by the Board to the Chairman of the Municipality. Transmission of copy of estimate to the Chairman of the Municipality.

126. (1) A special meeting of the Board shall be held as soon as may be expedient after the day appointed under sub-section (1) of section 19, and the Chairman shall at such special meeting lay before the Board an estimate of the income and expenditure of the Board for the portion of the financial year which on the said day had not expired. Special provision as to the first estimate of the constitution of the Board.

(2) The provisions of sub-sections (2) to (4) of section 122, and sections 123 to 125 shall apply to the said estimate.

(Sections 127—129.)

Supplemen-
tary
estimates.

127. (1) The Board may, at any time during the financial year for which any estimate has been sanctioned, cause a supplementary estimate to be prepared and laid before them at a special meeting.

(2) The provisions of sub-sections (3) and (4) of section 122, and sections 123 to 125 shall apply to every supplementary estimate.

Adherence to
estimate and
maintenance
of closing
balance.

128. (1) No sum shall be expended by or on behalf of the Board unless the expenditure of the same is covered by a current budget grant or can be met by reappropriation or by drawing on the closing balance.

(2) The closing balance shall not be reduced below one lakh of rupees without the previous sanction of the Provincial Government.

(3) The following items shall be excepted from the provisions of sub-sections (1) and (2), namely,—

- (a) re-payments of moneys belonging to contractors or other persons and held in deposit, and of moneys collected by, or credited to, the Board by mistake;
- (b) payments due under a decree or order of a Court passed against the Board or against the Chairman *ex-officio*, or under an award of the Tribunal;
- (c) sums payable under a compromise of any suit or other legal proceeding or claim effected under section 167;
- (d) sums payable under this Act by way of compensation;
- (e) payments required to meet some pressing emergency; and
- (f) gratuitous payments up to a maximum of five hundred rupees.

(4) Whenever any sum exceeding five thousand rupees is expended under clause (e) of sub-section (3) or whenever any sum is expended under clause (f) of that sub-section, the Chairman shall forthwith report the circumstances to the Provincial Government, and shall at the same time explain how the Board propose to cover the expenditure.

Receipt of
moneys and
deposit in
Bank.

129. (1) All moneys at the credit of the Board shall be kept in the State Bank of Pakistan.

(2) All moneys payable to the Board shall be received by the Chairman, and shall forthwith be paid into the aforesaid Bank to the credit of any account which shall be styled "The Account of the Trustees for the Improvement of Dacca".

of 1953.]

(Sections 130—134.)

130. (1) Surplus moneys at the credit of the said account may from time to time be—

Investment of surplus money.

(a) deposited at interest in the State Bank of Pakistan or in any other Bank in Dacca approved by the Provincial Government in this behalf, or

(b) invested in any of the securities or debentures mentioned in sub-section (1) of section 115 of this Act or section 20 of the Trusts Act, 1882.

Act II of 1882.

(2) All such deposits and investments shall be made by the Chairman on behalf of, and with the sanction of, the Board; and with the like sanction, the Chairman may at any time withdraw any deposit so made or dispose of any securities, and re-deposit or re-invest the money so withdrawn or the proceeds of the disposal of such securities.

131. (1) No payment shall be made by the State Bank of Pakistan out of the account referred to in section 129 except upon a cheque.

Payments by cheques.

(2) Payment of any sum due by the Board exceeding one hundred rupees in amount shall be made by means of a cheque and not in any other way.

132. All orders for making any deposit, investment, withdrawal, or disposal under section 130, and all cheques referred to in section 131 must be signed—

Signature of orders under section 130 and cheques.

(a) by the Chairman and the Secretary to the Board, or

(b) in the event of the illness or occasional absence from Dacca of the Chairman or the Secretary, then by the Secretary or the Chairman, as the case may be, and by a Trustee other than the Chairman.

133. Before the Chairman or any other Trustee or the Secretary to the Board signs a cheque under section 132, he must satisfy himself that the sum for which such cheque is drawn either is required for a purpose or work specifically sanctioned by the Board or is an item of one of the excepted descriptions specified in section 128, sub-section (3).

Duty of Chairman and others before signing cheques.

Accounts.

134. (1) The expression "cost of management", as used in the following sections in this Chapter, means—

Definition of "cost of management".

(a) the salary and allowances of the Chairman or acting Chairman referred to in section 12 or sub-section (2) of section 14;

(b) all fees paid under section 24 for attendance at meetings;

[E. B. Act XIII]

(Sections 135, 136.)

- (c) the salaries, fees and allowances of, and the contributions paid under section 160 in respect of, employees of the Board who are included in statements prepared under section 32;
- (d) the remuneration of other employees of the Board except employees who are paid by the day or whose pay is charged to temporary work;
- (e) all payments made under section 85; and
- (f) all office expenses incurred by the Board or the Tribunal.

(2) The expression "office expenses", in clause (f), means expenses incurred for carrying on office work, and includes the rent of offices, the provision of furniture therefor, the charges for printing and stationery and any other incidental expenses necessary for the efficient working of an office.

Keeping of
capital ac-
count and
revenue
account.

135. (1) The Board shall keep a capital account and a revenue account.

(2) The capital account shall show separately all expenditure incurred by the Board on each improvement scheme and each rehousing scheme.

Credits to
capital
account.

136. There shall be credited to the capital account—

- (a) all sums (except interest) received by way of special payments or betterment fees in pursuance of sections 92, 94 and 99;
- (b) all moneys received on account of loans taken by the Board in pursuance of section 104 or section 105;
- (c) the proceeds of the sale of any land vested in the Board which was purchased out of any loan taken in pursuance of section 104 or section 105;
- (d) where land was purchased out of an advance from the revenue account, the portion of the proceeds of the sale of such land which remains after crediting to the revenue account the amount of such advance;
- (e) the proceeds of the sale of any movable property (including securities for money invested from the capital account) belonging to the Board;
- (f) all lump sums received from any Government in aid of the capital account;
- (g) all premia received by the Board in connection with leases for any term exceeding forty years;

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(Sections 137, 138.)

- (h) all sums (if any) which the Provincial Government directs, under sub-section (2) of section 139 to be credited to the capital account ; and
- (i) all moneys resulting from the sale of securities by the direction of the Provincial Government under section 140.

137. The moneys credited to the capital account shall be held by the Board in trust, and shall be applied to— Application of capital account.

- (a) meeting all costs of framing and executing improvement schemes and re-housing schemes;
- (b) meeting the cost of acquiring land for carrying out any of the purposes of this Act;
- (c) meeting the cost of constructing buildings required for carrying out any of the purposes of this Act;
- (d) the repayment of loans from money borrowed in pursuance of clause (b) of section 104;
- (e) making payments in pursuance of section 163 otherwise than for interest or for expenses of maintenance or working;
- (f) making, or contributing towards the cost of making, surveys, in pursuance of section 180;
- (g) meeting such proportion of the cost of management as the Board may, with the sanction of the Provincial Government, prescribe in this behalf; and
- (h) temporarily making good the deficit (if any) in the revenue account at the end of any financial year.

138. There shall be credited to the revenue account— Credits to revenue account.

- (a) all interest received in pursuance of section 92, 98 or 99;
- (b) all sums contributed from Municipal funds which are received by the Board under section 103;
- (c) all damages received by the Board under section 175;
- (d) all annually recurring sums received from the Government in aid of the funds of the Board;
- (e) all premia received by the Board in connection with leases for any term not exceeding forty years;
- (f) all rents of land vested in the Board; and
- (g) all other receipts by the Board which are not required by section 136 to be credited to the capital account.

[E. B. Act XIII

(Sections 139—141.)

Application
of revenue
account.

139. (1) The moneys credited to the revenue account shall be held by the Board in trust, and shall be applied to—

- (a) meeting all charges for interest and sinking fund due on account of any loan taken in pursuance of clause (a) of section 104 or section 105 and all other charges incurred in connection with such loans;
- (b) paying all sums due from the Board in respect of rates and taxes imposed under the Bengal Municipal Act, 1932, upon land vested in the Board;
- (c) paying the cost (if any) of maintaining a separate establishment for the collection of the rents and other proceeds of land vested in the Board;
- (d) paying all sums which the Provincial Government may direct to be paid to any auditor under section 146;
- (e) making payments in pursuance of section 163 for interest or for expenses of maintenance of working;
- (f) paying the cost of management, excluding such proportion thereof as may be debited to the capital account under clause (g) of section 137; and
- (g) paying all other sums due from the Board, other than those which are required by section 137 to be disbursed from the capital account.

Beng. Act
KV of
1932.

(2) The surplus (if any) remaining after making the payments referred to in sub-section (1) shall, subject to the maintenance of a closing balance as required by sub-section (2) of section 128, and except as provided in section 141 and unless the Provincial Government otherwise directs, be invested, in the manner prescribed in section 115, towards the service of any loans outstanding after the expiry of sixty years from the commencement of this Act.

Power to
direct sale
of securities.

140. If, at any time after any surplus referred to in sub-section (2) of section 139 has been invested, the Provincial Government is satisfied that the investment is not needed for the service of any loan referred to in that sub-section, it may direct the sale of the securities held under the investment.

Advances
from revenue
account to
capital
account.

141. (1) Notwithstanding anything contained in section 139, the Board may advance any sum standing at the credit of the revenue account for the purpose of meeting capital expenditure.

(2) Every such advance shall be refunded to the revenue account as soon as may be practicable.

of 1953.]

(Sections 142—149.)

142. (1) Any deficit in the revenue account at the end of any financial year may be made good by an advance from the capital account.

Advances from capital account to revenue account.

(2) Every such advance shall be refunded to the capital account in the following financial year.

143. The Board shall submit to the Provincial Government at the end of each half of every financial year, an abstract of the accounts of their receipts and expenditure.

Submission of abstracts of accounts.

144. The accounts of the Board shall, once in every financial year, be examined and audited by such auditor as the Provincial Government may appoint in this behalf.

Annual audit of accounts.

145. The auditor so appointed may,—

Powers of auditors.

- (a) by written summons, require the production before him of any document which he may consider necessary for the proper conduct of the audit;
- (b) by written summons, require any person having the custody or control of, or being accountable for, any such document to appear in person before him; and
- (c) require any person so appearing before him to make and sign a declaration with respect to any such document, to answer any questions, or to prepare and submit any statement.

146. The Board shall pay to the said auditor such remuneration as the Provincial Government may direct.

Remuneration of auditor.

147. The said auditor shall—

Auditor's report to the Board.

- (a) report to the Board any material impropriety or irregularity which he may observe in the expenditure, or in the recovery of moneys due to the Board, or in the accounts, and report the same to the Provincial Government,
- (b) furnish to the Board such information as they may from time to time require concerning the progress of his audit, and
- (c) within fourteen days after the completion of his audit, forward his report upon the accounts to the Chairman.

148. It shall be the duty of the Board forthwith to remedy any defects or irregularities that may be pointed out by the auditor.

Board to remedy defects.

149. The Chairman shall cause the report mentioned in clause (c) of section 147 to be printed and shall forward a printed copy thereof to each Trustee, and shall bring such report before the Board for consideration at their next meeting.

Auditor's report to be sent to each Trustee.

(Sections 150—152.)

Publication and transmission of an abstract of the accounts.

150. As soon as practicable after the receipt of the said report, the Board shall prepare an abstract of the accounts to which it relates, and shall publish such abstract by notification, and shall send a copy of the abstract to the Chairman of the Municipality and to Provincial Government.

CHAPTER VII.

Rules.

Further power to Provincial Government for making rules.

151. In addition to the power conferred by section 102, the Provincial Government may make rules—

- (1) for regulating elections under sub-section (1)** of section 7;
- (2) for prescribing the maximum sum which may be paid to any person by way of fees under section 24; and
- (3) for prescribing the form of the abstracts of accounts referred to in sections 143 and 150.

Further power to Board for making rules.

152. (1) In addition to the power conferred by section 33, the Board may from time to time make rules (not inconsistent with any rules made by the Provincial Government) for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the Board may make rules—

- (a) for associating members with the Board under section 21;
- (b) for appointing persons (other than Trustees and persons associated with the Board under section 21) to be members of Committees under section 22;
- (c) for regulating the delegation of powers or duties of the Board to Committees under section 22;
- (d) for the guidance of persons employed by them under this Act;
- (e) for prescribing the fees payable for copies of documents delivered under sub-section (3) of section 45 or clause (iv) of sub-section (3) of section 69;

*The word, brackets and figure "and (3)" were omitted by the Town Improvement (Third Amendment) Ordinance, 1959 (E.P. Ord. No. XLIII of 1959), section 7.

of 1953.]

(Sections 153, 154.)

(f) for facilitating the taking of a census and securing accurate returns thereof;

(g) for the maintenance and management of any buildings, houses, or shops constructed under any improvement or re-housing scheme; and

(h) for preferring appeals to the Board under the provisions of this Act.

(3) In making any rule under sub-section (1) or sub-section (2), the Board may provide that a breach of it shall be punishable—

(i) with fine which may extend to five hundred rupees,

(ii) in case of a continuing breach, with fine which may extend to fifty rupees for everyday during which the breach continues after receipt of written notice from the Chairman to discontinue the breach.

153. The power to make rules under section 33, 1**** or section 152 is subject to the conditions of the rules being made after previous publication, and to the following further conditions, namely:—

Conditions precedent to the making of rules under section 33, or 152.

(a) a draft of the rules shall be published by notification and in local newspapers;

(b) such draft shall not be further proceeded with until after the expiration of a period of one month from such publication or such longer period as the Provincial Government or (in the case of rules made under section 33 or section 152) the Board may appoint;

(c) for one month at least during such period, a printed copy of such draft shall be kept at the Board's office for public inspection, and every person shall be permitted at any reasonable time to peruse the same, free of charge; and

(d) printed copy of such draft shall be delivered to any person requiring the same, on payment of a fee of two annas for each copy.

154. No rule made under section 33 or section 152 shall have any validity unless and until it is sanctioned, with or without modification, by the Provincial Government.

Sanction of Provincial Government to rules made under section 33 or 152.

¹The words, figures and comma "section 102, section 151" were omitted by the Town Improvement (Amendment)² Act, 1956 (E. P. Act VII of 1956), section 6.

[E. B. Act XIII]*(Sections 155—160.)***Publication of rules.**

155. When any rule has been made under section 102 or section 151 and when any rule has been made under section 33 or section 152 and duly sanctioned, it shall be published by the Provincial Government by notification, and such publication shall be conclusive proof that the rule has been duly made.

Printing and sale of copies of rules.

156. (1) The Chairman shall cause all rules made under section 33, section 102, section 151 or section 152 and for the time being in force to be printed, and shall cause printed copies thereof to be delivered to any applicant on payment of a fee of two annas for each copy.

(2) Notice of the fact of copies of rules being obtainable at the said price and of the place where and the person from whom the same are obtainable, shall be given by the Chairman by advertisement in local newspapers.

Exhibition of copies of rules.

157. Copies in English, Bengali and Urdu of all rules made under section 102, section 151 or section 152 shall be hung or affixed in some conspicuous part of the Board's office and in such places of public resort affected by the rules as the Chairman may think fit.

Cancellation of rules made under section 152.

158. The Provincial Government may at any time, by notification, cancel any rule made by the Board under section 152.

CHAPTER VIII.**SUPPLEMENTAL PROVISIONS.***Status of Trustees, etc.***Trustee etc., deemed public servants.**

159. Every Trustee and every employee of the Board as well as the President and every member and employee of the Tribunal shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code. **Act XL of 1860.**

*Contributions towards leave allowances and pensions of Government servants.***Contributions by Board towards leave allowances and pensions of Government servants employed under this Act.**

160. The Board shall be liable to pay such contribution for the leave allowance and pension of any servant of the Government employed as Chairman or as an employee of the Board or as the President, member or employee of the Tribunal, as may be required, by the conditions of his service under the Government to be paid by him or on his behalf.

of 1953.]

(Sections 161, 162.)

Extension of Acts to areas in the neighbourhood of the Municipality.

161. (1) When any provision of this Act has been extended to any area under sub-section (2) of section 1, the Provincial Government may, by notification published in the *Official Gazette* and in such other manner (if any) as it may consider necessary, extend to such area, if necessary, the Bengal Municipal Act, 1932, or any portion thereof, subject to such restrictions and modifications (if any) as may be specified in such notification.

Ben. Act XV of 1932.

Power to extend the Bengal Municipal Act, 1932, to areas to which provisions of this Act, have been extended.

(2) When the said Bengal Municipal Act, 1932, or any portion thereof, is extended under sub-section (1) to any area, then—

Ben. Act XV of 1932.

(a) the Bengal Local Self-Government Act, 1885, or the Bengal Village Self-Government Act, 1919, as the case may be, or the corresponding portion of such Acts, as the case may be, if in force in such area, shall be deemed to be repealed therein, and,

Ben. Act III of 1885.
Ben. Act V of 1919.

(b) except as the Provincial Government may otherwise by notification, direct, all rules, by-laws, regulations, orders, directions and powers made, issued or conferred under the portions of the said Bengal Municipal Act, 1932, which have been so extended and in force at the date of such extension, shall apply to the said area, in supersession of all corresponding rules, by-laws, regulations, orders, directions and powers (if any) made, issued or conferred under the said Bengal Local Self-Government Act, 1885, or the Bengal Village Self-Government Act, 1919, as the case may be.

162. (1) Before finally publishing any notification under sub-section (2) of section 1 or sub-section (1) of section 161, the Provincial Government shall publish a draft of the same in the *Official Gazette*.

Publication of notification under sections 1 (2) and 161 (1) in draft for criticism.

(2) Any rate-payer or inhabitant of the area affected by such draft, may, if he objects to the draft, submit his objection in writing to the Provincial Government within six weeks from its publication, and the Provincial Government shall take such objection into consideration.

[E. B. Act XIII*(Sections 163—165.)**Facilities for movement of the population.*

Power of the Board for facilitating movement of the population.

163. With a view to facilitating the movement of the population in and around the Municipality, the Board may from time to time,—

- (1) subject to any conditions they may think fit to impose,—
 - (a) guarantee the payment, from the funds at their disposal, of such sums as they may think fit, by way of interest on capital expended on the construction, maintenance or working of means of locomotion; or
 - (b) make such payments as they may think fit from the said funds, by way of subsidy to person undertaking to provide, maintain and work means of locomotion; or
- (2) either singly or in combination, with any other person, construct, maintain and work any means of locomotion, under the provisions of any law applicable thereto, or
- (3) construct, or widen, strengthen or otherwise improve, bridges:

Provided that no guarantee or subsidy shall be made under clause (1), and no means of locomotion shall be constructed, maintained or worked under clause (2), without the sanction of the Provincial Government.

Telegraph and Railway Acts.

Savings.

164. Nothing in this Act shall be deemed to affect the provisions of the Telegraph Act, 1885, or the Railways Act, 1890.

XIII of 1885.
IX of 1890.

Legal Proceedings.

Cognizance of offences.

165. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, all offences against this Act or any rule made hereunder shall be cognizable by a Magistrate of the first class; and no such Magistrate shall be deemed to be incapable of taking cognizance of any such offence by reason only of being liable to pay any duty imposed by this Act or of his being benefited by the funds to the credit of which any fine imposed by him will be payable. V of 1898.

of 1953.]

(Sections 166—170.)

166. No person shall be liable to punishment for any offence against this Act or any rule made hereunder unless complaint of such offence is made before a Magistrate of the first class within three months next after the commission of such offence. Limitation of time for prosecution.

167. The Chairman may, subject to the control of the Board,— Powers of Chairman as to institution, etc., of legal proceedings and obtaining legal advice.

- (a) institute, defend or withdraw from, legal proceedings under this Act or any rule made hereunder;
- (b) compound any offence against this Act or any rule made hereunder which, under any law for the time being in force, may lawfully be compounded;
- (c) admit, compromise or withdraw any claim made under this Act or any rule made hereunder; and
- (d) obtain such legal advice and assistance as he may from time to time think it necessary or expedient to obtain, or as he may be desired by the Board to obtain, for any of the purposes referred to in the foregoing clauses of this section, or for securing the lawful exercise or discharge of any power or duty vested in or imposed upon the Board or any employee of the Board.

168. No suit shall be maintainable against the Board, or any Trustee, or any employee of the Board, or any person acting under the direction of the Board or of the Chairman or of any employee of the Board, in respect of anything lawfully and in good faith and with due care and attention done under this Act or any rule made hereunder. Indemnity to Board, etc.

169. No suit shall be instituted against the Board, or any Trustee, or any employee of the Board, or any person acting under the direction of the Board or of the Chairman or of any employee of the Board, in respect of any act purporting to be done under this Act or any rule made hereunder, until the expiration of one month next after written notice has been delivered or left at the Board's office or the place of abode of such employee or person, stating the cause of action, the name and place of abode of the intending plaintiff, and the relief which he claims; and the plaint must contain a statement that such notice has been so delivered or left. Notice of suit against Board, etc.

Police.

170. (1) The Superintendent of Police and his subordinates shall be bound to co-operate with the Chairman for carrying into effect and enforcing the provisions of this Act. Co-operation of the police.

[E. B. Act XIII]*(Sections 171, 172.)*

(2) It shall be the duty of every Police Officer who is subordinate to the Superintendent of Police—

- (i) to communicate without delay to the proper employee of the Board any information which he receives of a design to commit or of the commission of any offence against this Act or any rule made hereunder, and
- (ii) to assist the Chairman or any employee of the Board reasonably demanding his aid for the lawful exercise of any power vesting in the Chairman or in such employee under this Act or any such rule.

Arrest of offenders.

171. (1) Every Police Officer shall arrest any person who commits, within his view, any offence against this Act or any rule made hereunder, if the name and address of such person be unknown to him, and if such person, on demand declines to give his name and address, or gives a name or address which such officer has reason to believe to be false.

(2) No person so arrested shall be detained in custody after his true name and address are ascertained, or without the order of a Magistrate, for any longer time, not exceeding at the most twenty-four hours from the arrest, than is necessary for bringing him before a Magistrate.

(3) On the written application of the Chairman, any Police Officer above the rank of constable shall arrest any person who obstructs any employee of the Board in the exercise of any of the powers conferred by this Act or any rule made hereunder.

*Evidence.***Proof of consent, etc., of Board or Chairman or employee of Board.**

172. Whenever, under this Act or any rule made hereunder, the doing or the omitting to do anything or the validity of anything depends upon the approval, sanction, consent, concurrence, declaration, opinion or satisfaction of—

- (a) the Board or the Chairman, or
- (b) any employee of the Board,

a written document, signed, in case (a) by the Chairman, and in case (b) by the said employee, purporting to convey or set forth such approval, sanction, consent, concurrence, declaration, opinion or satisfaction, shall be sufficient evidence of such approval, sanction, consent, concurrence, declaration, opinion or satisfaction.

of 1953.]

(Sections 173—175.)

Validation.

173. (1) No act done or proceeding taken under this Act shall be questioned on the ground merely of—

Validation
of acts and
proceedings.

- (a) the existence of any vacancy in, or any defect in the constitution of, the Board, or any Committee; or
- (b) any person having ceased to be a Trustee; or
- (c) any Trustee, or any person associated with the Board under section 21 or any other member of a Committee appointed under this Act, having voted or taken any other part in any proceeding in contravention of section 25; or
- (d) the failure to serve a notice under section 48 on any person, where no substantial injustice has resulted from such failure; or
- (e) any omission, defect or irregularity not affecting the merits of the case.

(2) Every meeting of the Board, the minutes of the proceedings of which have been duly signed as prescribed in clause (h) of section 20, shall be taken to have been duly convened and to be free from all defect and irregularity.

Compensation.

174. In any case not otherwise expressly provided for in this Act, the Board may pay reasonable compensation to any person who sustains damage by reason of the exercise of any of the powers vested, by this Act or any rule made or scheme sanctioned hereunder, in the Board or the Chairman or any employee of the Board.

General
power of
Board to pay
compensa-
tion.

175. (1) If, on account of any act or omission, any person has been convicted of any offence against this Act or any rule made hereunder, and, by reason of the same act or omission of the said person, damage has occurred to any property of the Board, compensation shall be paid by the said person for the said damage, notwithstanding any punishment to which he may have been sentenced for the said offence.

Compensa-
tion to be
paid by offen-
ders for
damage
caused by
them.

(2) The amount of compensation payable by the said person shall be determined by the Magistrate while convicting him of the said offence.

(3) If the amount of any compensation due under this section be not paid, the same shall be recovered under a warrant from the said Magistrate as if it were a fine inflicted by him on the person liable therefor.

(Sections 176—179.)

Public notices and advertisements.

Publication
of public
notices.

176. Every public notice given under this Act or any rule made hereunder shall be in writing over the signature of the Chairman, and shall be widely made known in the locality to be affected thereby, by affixing copies thereof in conspicuous public places within the said locality, by publishing the same by beat of drum, by advertisement in local newspapers, and by any other means that the Chairman may think fit.

Publication
of advertise-
ments or
notices in
news papers.

177. Whenever it is provided by this Act or any rule made hereunder that notice shall be given by advertisement in local newspapers, or that a notification or any information shall be published in local newspapers, such notice, notification or information shall be inserted, if practicable, in at least one English newspaper and one Vernacular newspaper.

Signature and service of notices or bills.

Stamping
signature on
notices or
bills.

178. Every notice or bill, which is required by this Act or by any rule made hereunder to bear the signature of the Chairman or of any other Trustee or of any employee of the Board, shall be deemed to be properly signed if it bears a facsimile of the signature of the Chairman or of such other Trustee or of such employee, as the case may be, stamped thereupon.

Service of
notice how
to be effected.

179. When any notice, bill or other document is required by this Act or any rule made hereunder to be served upon or issued or presented to any person, such service, issue or presentation shall be effected—

- (a) by giving or tendering such document to such person; or
- (b) if such person is not found, by leaving such document at his last known place of abode in areas to which this Act extends or by giving or tendering the same to some adult male member or servant of his family; or
- (c) if such person does not reside in areas to which this Act extends and his address elsewhere is known to the Chairman, by forwarding such document to him by registered post under cover bearing the said address; or
- (d) if none of the means aforesaid be available, by causing a copy of such documents to be affixed on some conspicuous part of the land (if any) to which the document relates.

of 1953.]

(Sections 180, 181.)

Surveys.

180. The Board may—

- (a) cause a survey of any land to be made, whenever they consider that a survey is necessary or expedient for carrying out any of the purposes of this Act, or
- (b) contribute towards the cost of any such survey made by any other local authority.

Power to make surveys, or contribute towards their cost.

Power of entry.

181. (1) The Chairman or any person either generally or specially authorised by the Chairman in this behalf may, with or without assistants or workmen, enter into or upon any land, in order—

Power of entry.

- (a) to make any inspection, survey, measurement, valuation or inquiry,
- (b) to take levels,
- (c) to dig or bore into the sub-soil,
- (d) to set out boundaries and intended lines of work,
- (e) to mark such levels, boundaries and lines by placing marks, and cutting trenches, or
- (f) to do any other thing.

whenever it necessary to do so for any of the purposes of this Act or any rule made or scheme sanctioned hereunder or any scheme which the Board intend to frame hereunder:

Provided as follows:—

- (a) no such entry shall be made between sunset and sunrise;
- (b) no dwelling-house, and no public building or hut which is used as a dwelling-place, shall be so entered, unless with the consent of the occupier thereof, without giving the said occupier at least twenty-four hours' previous written notice of the intention to make such entry;
- (c) sufficient notice shall in every instance be given, even when any premises may otherwise be entered without notice, to enable the inmates of any apartment appropriated to females to remove to some part of the premises where their privacy need not be disturbed;

(Sections 182—184.)

- (d) due regard shall always be had, so far as may be compatible with the exigencies of the purpose, for which the entry is made, to the social and religious usages of the occupants of the premises entered.

(2) Wherever the Chairman or a person authorised under sub-section (1) enters into or upon any land in pursuance of that sub-section, he shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid; and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the Board, whose decision shall be final.

Penalties.

Punishment for acquiring share or interest in contract, etc., with the Board.

182. If any Trustee, or any employee of the Board, knowingly acquires, directly or indirectly, by himself or by any partner, employer or employee, otherwise than as such Trustee or employee, any share or interest in any contract or employment with, by or on behalf of, the Board, not being a share or interest such as, under sub-section (2) of section 10, it is permissible for a Trustee to have without being thereby disqualified for being appointed a Trustee, he shall be deemed to have committed the offence made punishable by section 168 of the Pakistan Penal Code.

Act XL of 1860.

Penalty for removing fence, etc., in street.

183. If any person, without lawful authority,—

- (a) removes any fence or shoring-timber, or removes or extinguishes any light, set up under section 60, or
- (b) infringes any order given, or removes any bar, chain or post fixed, under sub-section (2) of section 61,

he shall be punishable with fine which may extend to fifty rupees.

Penalty for building within street alignment or building line.

184. If any person, without the permission of the Chairman required by sub-section (1) of section 72, erects, re-erects, or adds to any wall (exceeding ten feet in height) or building which falls within the street alignment or building line of a projected public street shown in any plan sanctioned by the Provincial Government under the said section, he shall be punishable—

- (a) with fine which may extend, in the case of a masonry building or a wall, to five hundred rupees, and, in the case of a hut, to fifty rupees, and

of 1953.]

(Sections 185—187.)

- (b) with further fine which may extend, in the case of a masonry building or a wall, to one hundred rupees, and, in the case of a hut, to ten rupees, for each day after the first during which the projection continues.

185. If the owner for the time being of any wall or building in respect of which an agreement has been executed as provided in sub-section (2) of section 72 fails—

Penalty for failure to remove wall or building in respect of which agreement has been executed.

- (a) to remove such wall or building, or any specified portion thereof, when so required by notice issued under that sub-section, or,
- (b) within fifteen days from the receipt of such notice to authorise the Chairman, by permission in writing, to remove the said wall, building or portion,

he shall be punishable—

- (i) with fine which may extend, in the case of a masonry wall or building, to one hundred rupees, and, in the case of a hut, to twenty rupees; and
- (ii) with a further fine, in the case of a masonry wall or building, to ten rupees, and, in the case of a hut, to five rupees, for each day after the first during which the failure continues.

186. Whoever uses any land, included in a zone plan, in contravention of section 74, shall be punishable—

Penalty for use of land in zone plan in contravention of section 74.

- (i) with fine which may extend to one hundred rupees, and
- (ii) with a further fine which may extend to ten rupees for each day after the first during which such contravention continues.

187. (1) The Court, convicting any person under section 185 or section 186, shall order the removal of the unauthorised construction, if any, by such person within a time to be fixed by the Court.

Removal of unauthorised construction.

(2) If such person fails to remove the unauthorised construction within the time fixed, it shall be lawful for the Board to cause such construction to be removed, and the cost of such removal shall be recoverable from that person as a public demand.

[E. B. Act XIII]

(Sections 188—191.)

Penalty for failure to comply with requisition made by auditor.

188. If any person fails to comply with any requisition made under section 145, he shall be punishable—

- (a) with fine which may extend to one hundred rupees; or
- (b) in case of a continuing failure, with fine which may extend to fifty rupees for each day after the first during which the failure continues.

Penalty for obstructing contractor or removing mark.

189. If any person—

- (a) obstructs or molests any person with whom the Chairman has entered into a contract on behalf of the Board, in the performance or execution by such person of his duty or of anything which he is empowered or required to do by virtue or in consequence of this Act or any rule made hereunder, or
- (b) removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorised by this Act or any rule made or scheme sanctioned hereunder,

he shall be punishable with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to two months.

Recovery of expenses.

Removal of wall or building and recovery of expenses.

190. When a written notice issued under sub-section (2) of section 72 for the removal of a wall or building, or any portion thereof, is not complied with by the owner thereof for the time being as provided in section 185, the Chairman may proceed to remove such wall, building or portion; and the expenses incurred in effecting such removal shall be recoverable by sale of the materials or other things removed.

Suspension or abolition, and re-imposition, of Municipal contributions.

Suspension or abolition and re-imposition of Municipal contributions.

191. (1) Whenever the Provincial Government considers that any payment required by section 103, or any portion of any such payment, is not required for the purposes of this Act, it may, by notification,—

- (a) suspend, for any specified period, the making of such payment or any specified portion thereof, or
- (b) abolish such payment, or any specified portion thereof, from a date to be specified in the notification.

of 1953.]

(Section 192, The Schedule.)

(2) If at any time the Provincial Government considers that any payment, or any portion thereof, which has been suspended or abolished under sub-section (1) is required for the purposes of this Act, it may, by notification, cancel, such suspension or abolition wholly or in part, as it may think fit, from a date to be specified in the notification.

Dissolution of Board.

192. (1) When all schemes sanctioned under this Act have been executed, or have been so far executed as to render the continued existence of the Board, in the opinion of the Provincial Government unnecessary, the Provincial Government may, by notification, declare that the Board shall be dissolved from such date as may be specified in this behalf in such notification; and the Board shall be deemed to be dissolved accordingly.

Ultimate dissolution of Board and transfer of their assets and liabilities to the Municipality.

(2) On and from the said date—

- (a) all properties, funds and dues which are vested in or realizable by the Board and the Chairman respectively shall vest in and be realizable by the Municipality, and
- (b) all liabilities which are enforceable against the Board shall be enforceable only against the Municipality, and
- (c) for the purposes of completing the execution of any scheme, sanctioned under this Act, which has not been fully executed by the Board, and of realizing properties, funds and dues referred to in clause (a), the functions of the Board and the Chairman under this Act shall be discharged by the Municipality and its Chairman respectively; and
- (d) the Municipality shall keep separate accounts of all moneys respectively received and expended by them under this Act, until all loans raised hereunder have been repaid, and until all other liabilities referred to in clause (b) have been duly met.

THE SCHEDULE

(REFERRED TO IN SECTION 81.)

Further modifications in the Land Acquisition Act, 1894.

1. After clause (e) of section 3, the following shall be deemed to be inserted, namely,—

Amendment of section 3.

“(e) the expression ‘local authority’ includes the Board of Trustees constituted under the Town Improvement Act, 1953.”

[E. B. Act XIII]

(The Schedule.)

Amendment of section 15. 2. In section 15, *for* the words and figures "sections 23 and 24", the words, figures and brackets "sub-section (1) of section 23, section 24, and section 24A" shall be deemed to be *substituted*.

Amendment of section 17. 3. (1) In sub-section (3) of section 17, *after* the figures "24" the words, figures and letter "or section 24A" shall be deemed to be *inserted*.

(2) To the said section 17 the following shall be deemed to be *added*, namely,—

"(4) Sub-sections (1) and (3) shall apply also in the case of any area which is stated in a certificate granted by a District Magistrate or a Magistrate of the first class to be unhealthy.

(5) Before granting any such certificate, the Magistrate shall cause notice to be served as promptly as may be on the persons referred to in sub-section (3) of section 9, and shall hear without any avoidable delay any objections which may be urged by them.

(6) When proceedings have been taken under this section for the acquisition of land, and any person sustains damage in consequence of being suddenly dispossessed of such land, compensation shall be paid to such person for such dispossession."

New section 17A. 4. *After* section 17, the following shall be deemed to be *inserted*, namely,—

"17A. In every case referred to in section 16 or section 17, the Collector shall, upon payment of the cost of acquisition, make over charge of the land to the Board; and the land shall thereupon vest in the Board, subject to the liability of the Board to pay any further costs which may be incurred on account of its acquisition."

Amendment of section 23. 5. At the end of section 23, the following shall be deemed to be *added*, namely,—

"(3) For the purposes of clause first of sub-section (1) of this section,—

(a) the market value of the land shall be deemed to be the market value according to the disposition of the land at the date of the publication of the scheme under section 45 of the Town Improvement Act, 1953;

of 1953.]

(The Schedule.)

- (b) if it be shown that, before such publication of the scheme or before such notification, as the case may be, the owner of the land had taken active steps and incurred expenditure to secure a more profitable disposition of the same, further compensation, based on his actual loss, may be paid to him;
- (c) if the market value has been increased or decreased owing to the land falling within or near to the alignment of a projected public street or a proposed open space, so much of the increase or decrease as may be due to such cause shall be disregarded;
- (d) if any person without the permission of the Chairman required by sub-section (1) of section 72 of the Town Improvement Act, 1953, has erected, re-erected or added to any wall (exceeding ten feet in height) or building within the street alignment or building line of a projected public street or within the area of a projected open space, then, any increase in the market value resulting from such erection, re-erection or addition shall be disregarded;
- (e) if the market value has been increased by means of any improvement made by the owner or his predecessor-in-interest within one year before the aforesaid scheme was published, such increase shall be disregarded, unless it be proved that the improvement was made *bona fide* and not in contemplation of proceedings for the acquisition of the land being taken under this Act;
- (f) if the market value is specially high in consequence of the land being put to a use which is unlawful or contrary to public policy, that use shall be disregarded, and the market value shall be deemed to be the market value of the land if put to ordinary use; and
- (g) if the market value of any building is specially high in consequence of the building being so overcrowded as to be dangerous to the health of the inmates, such overcrowding shall be disregarded, and the market value shall be deemed to be the market value of the building if occupied by such number of persons only as could be accommodated in it without risk of danger from overcrowding.

[E. B. Act XIII]

(The Schedule.)

- (4) For all acquisitions made for the purposes of the Town Improvement Act, 1953, sub-section (2) of section 23 shall be deemed to be deleted."

Amendment
of section 24

6. For clause seventhly of section 24, the following shall be deemed to be *substituted*, namely,—

"Seventhly, any outlay on additions or improvements to land acquired, which was incurred after the date of the publication of the scheme under section 45 of the Town Improvement Act, 1953, unless such additions or improvements were necessary for the maintenance of any building in a proper state of repair."

New section
24A.

- 7 After section 24, the following shall be deemed to be inserted namely:—

"24A In determining the amount of compensation to be awarded for any land acquired under this Act for the purposes of the Town Improvement Act, 1953, the Tribunal constituted under the said Act shall also have regard to the following provisions, namely:—

- (1) when any interest in any land acquired under this Act has been acquired after the date of the publication of the scheme under section 45 of the Town Improvement Act, 1953, no separate estimate of the value of such interest shall be made so as to increase the amount of compensation to be paid for such land;
- (2) if, in the opinion of the said Tribunal, any building is in a defective state, from a sanitary point of view, or is not in a reasonably good state of repair, the amount of compensation shall not exceed the sum which that Tribunal considers the building would be worth if it were put into a sanitary condition or into a reasonably good state of repair, as the case may be, *minus* the estimated cost of putting it into such condition or state;
- (3) if, in the opinion of the said Tribunal any building, which is used or is intended or is likely to be used for human habitation, is not reasonably capable of being made fit for human habitation, the amount of compensation shall not exceed the value of the materials of the building, *minus* the cost of demolishing the building".

of 1953.]

(The Schedule.)

8. After section 48, the following shall be deemed to be New sections
48A and 48B.
inserted, namely:—

“48A. (1) If, within a period of two years from the date of the publication of the declaration under section 6, in respect of any land, the Collector has not made an award under section 11 with respect to such land, the owner of the land shall be entitled to receive compensation for the damage suffered by him in consequence of the delay.

(2) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section.

48B. No compensation shall be payable in pursuance of section 48 or section 48A when proceedings for the acquisition of land have been abandoned in pursuance of the provisions of section 92 or section 93 of the Town Improvement Act, 1953.”

East Bengal Act XXII of 1953.

THE ESSENTIAL ARTICLES (PRICE CONTROL AND ANTI-HOARDING) ACT, 1953.¹

[5th October, 1953.]

An Act to make provision for the control of supply and distribution of, and trade and commerce in, certain limited number of essential commodities.

WHEREAS it is expedient to make provision for the control of supply and distribution of, and trade and commerce in, certain limited number of essential commodities;

It is hereby enacted as follows :—

1. (1) This Act may be called the Essential Articles (Price Control and Anti-Hoarding) Act, 1953. Short title, extent and commencement.
- (2) It extends to the whole of ²[East Pakistan].
- (3) It shall come into force at once.

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

- (a) “essential article” means any article, other than an article which is an “essential commodity” within the meaning of section 2 of the Essential Supplies (Temporary Powers) Act, 1946, which the Provincial Government may, from time to time, declare by notification, to be an article to which the provisions of this Act shall apply;
- (b) “family” includes all persons who live in a private house and are members of the same mess;
- (c) “notification” means a notification published in the *Official Gazette*;

XXIV of
1946.

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 28th August, 1953, Pt.IVA, p.1410; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 31st August, and 14th and 15th September, 1953.

The Act was applied to the Chittagong Hill Tracts and to the partially excluded areas of Mymensingh district which were known as “Partially Excluded Areas” immediately before the coming into force of the Constitution which was abrogated by the Presidential Proclamation of the 7th October, 1958, vide Notification No. 13444Poll., dated the 30th November, 1953, published in *Dacca Gazette*, dated 10th December, 1953, p. 1189.

²The words within square brackets were substituted for the words “East Bengal” by E. P. Ord. XXVIII of 1960, First Schedule.

(Sections 3—5.)

- (d) “prescribed” means prescribed by rules made under this Act;
- (e) “retailer” means a trader who sells any essential article directly to a consumer;
- (f) “trader” means any person engaged in the purchase, sale or storage for sale of any essential article; and
- (g) “wholesaler” means a trader other than a retailer.

Power to fix prices and to require marking of prices.

3. (1) The Provincial Government may, from time to time, by notification, fix the maximum prices at which an essential article may be sold by a retailer, wholesaler or any other person and for this purpose may fix different prices for different areas of the Province.

(2) The Provincial Government may, by notification, require any trader to mark, on any essential article, the maximum prices fixed under sub-section (1), in such manner as may be prescribed and the traders concerned shall mark such article accordingly. Such trader shall exhibit in a prominent place in the shop or godown a list showing the maximum prices of essential articles fixed under the said sub-section.

(3) A notification under sub-section (1) shall specify date from which and the period for which the maximum price has been fixed.

Prohibition against purchase, sale, etc., at prices exceeding the maximum price.

4. (1) Notwithstanding anything contained in any contract, no retailer or wholesaler shall sell or purchase, or deliver or accept delivery of, any essential article at a price exceeding the maximum price fixed under sub-section (1) of section 3.

(2) No trader shall sell or offer or exhibit for sale any essential article in respect of which marking of maximum prices has been required under sub-section (2) of section 3, unless such article has been so marked.

Power to control possession of essential article.

5. (1) The Provincial Government may, by notification, direct that no family, wholesaler or retailer shall keep in its or his possession or under its or his control any essential article in excess of the quantity specified in such notification.

Explanation.—For the purpose of this section, the possession or control of any one member of a family shall be deemed to be the possession or control of every adult member of that family.

(Sections 6—9.)

(2) If, on the date of issue of a notification under sub-section (1) in respect of any essential article, any family, wholesaler or retailer has in its or his possession any quantity of such essential article in excess of the quantity specified in such notification, the head of the family, wholesaler or retailer concerned shall forthwith report the fact to the Provincial Government or to such officer as may be empowered in this behalf by the Provincial Government and shall take such action as to storage, distribution or disposal of the excess quantity as the Provincial Government or such officer may direct.

6. The Provincial Government may, by notification, direct that no trader or class of trader shall deal in any essential article except under, and in accordance with the conditions of, a licence issued, in this behalf by the Provincial Government, on payment of such fees and in such manner and form as may be prescribed. An application for such licence shall be accompanied by such fee as may be prescribed.

Power to require licence for trading.

7. The Provincial Government may, by general or special order in writing, require any trader holding stock of an essential article to sell the whole or specified part thereof at prices not exceeding the maximum fixed under sub-section (1) of section 3, to such person or class of persons and in such circumstances or under such permits as may be specified in the order and the trader concerned shall comply with such order.

Power to compel sales to specified person.

8. No trader shall, unless previously authorised to do so by the Provincial Government, withhold from sale or refuse to sell to any person, any essential article in quantities not contrary to the normal practices of his business.

Prohibition against withholding of sales.

9. (1) Any officer, authorised in this behalf by the Provincial Government, may, by general or special order in writing,—

Power to require maintenance of accounts, etc., and registration of godowns.

(a) require a trader to maintain accounts relating to any transaction in such manner and form as may be prescribed;

(b) require a trader to submit such accounts, returns, reports or statements relating to any transactions, in such manner and form and to such officer as may be prescribed;

(c) require a trader to cause his storage godown to be registered on payment of such fees and in such manner and within such period as may be prescribed; and

(Sections 10—12.)

- (d) require a trader to keep hung up in his business centre a notice-board quoting therein the daily stock of essential articles held by him in his stock.

(2) No trader whose godown has been registered under clause (c) of sub-section (1) shall store any essential article in any place other than the godown so registered.

Power to enter, inspect, search, etc.

10. Any officer, authorised in this behalf by the Provincial Government, may—

- (a) enter upon and inspect any premises, tents, vessels or vehicles used or believed to be used for the purchase, sale, transfer or storage for sale of any essential article;
- (b) enter upon and search any premises, tents, vessels or vehicles and seize any essential article, together with the containers thereof, in respect of which he has reason to believe that contravention of this Act has been committed;
- (c) direct the owner, occupier or other persons in charge of such premises, tents or vessels, or any trader to produce any books, accounts, vouchers or other documents relating to the purchase, sale or storage for sale of any essential article or to furnish such information relating to such transaction as the officer so authorised may require; but the officer so authorised shall not require any family which has stored essential articles for consumption and not for sale to produce books, accounts, vouchers or other documents relating to the purchase of any such essential articles;
- (d) inspect or cause to be inspected any books, accounts, vouchers or other documents relating to such transactions; and
- (e) take or cause to be taken extracts from, or copies of, any document relating to such transactions.

Provisions of the Act not to apply in case of Government purchase, etc.

11. The provisions of this Act shall not apply to the purchase, storage or distribution, of any essential article by or on behalf of the Provincial Government or the Central Government.

Power to exempt.

12. The Provincial Government may, by notification, exempt any person or class of persons from all or any of the provisions of this Act subject to such conditions, if any, as may be specified.

(Sections 13—19.)

- XXIX of 1948. 13. If any person contravenes any of the provisions of this Act, he shall be deemed to have committed an offence under section 3 of the Hoarding and Black Market Act, 1948, and the provisions of that Act shall apply accordingly. Penalties.
14. Any person who attempts to contravene, or abets a contravention of, any provision of this Act shall be deemed to have contravened that provision. Attempts and abetments.
15. The Provincial Government may, by notification, direct that any power or duty which is conferred or imposed by this Act on the Provincial Government shall, subject to such conditions, if any, as may be specified in the notification, be exercised or discharged also by any officer or authority subordinate to it. Delegation of power.
- XLV of 1860. 16. Any person empowered to do anything under this Act shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code. Public servant.
17. The Provincial Government may make rules for carrying out the purposes of this Act. Power to make rules.
18. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is, in good faith, done or intended to be done in pursuance of any provision of this Act and the rules made thereunder. Indemnity.
- (2) No suit or other legal proceeding shall lie against the Provincial Government for any damage caused or likely to be caused by anything which is, in good faith, done or intended to be done in pursuance of any provision of this Act and the rules made thereunder.
- East Bengal Ordinance No. VII of 1953. 19. (1) The Essential Articles (Price Control and Anti-Hoarding) Ordinance, 1953, is hereby repealed. Repeal and savings.
- (2) Any orders passed or anything done or any action taken or any proceedings commenced under any provision of the said Ordinance shall continue in force and be deemed to have been passed, done, taken or commenced under the corresponding provision of this Act.

East Bengal Act XXV of 1953.

**THE CODE OF CRIMINAL PROCEDURE (EAST
BENGAL AMENDMENT) ACT, 1953.¹**

[13th November, 1953.]

An Act to improve the system of trial by jury in ²[East Pakistan] and to that end to amend the Code of Criminal Procedure, 1898, in its application to ²[East Pakistan].

Act V of 1898. WHEREAS it is expedient to improve the system of trial by jury in ²[East Pakistan] and to that end to amend the Code of Criminal Procedure, 1898, in its application to ²[East Pakistan];

It is hereby enacted as follows:—

1. (1) This Act may be called the Code of Criminal Procedure (East Bengal Amendment) Act, 1953. Short title and commencement.
(2) It shall come into force at once.
2. The Code of Criminal Procedure, 1898 (hereinafter referred to as the said Code) shall be amended in the manner hereinafter provided. Amendment of Act V of 1898.
3. In section 276 of the said Code, in the second proviso, *after* the words “such other persons” a comma and *thereafter* the words and comma “not being persons belonging to the subdivision from which the accused has or have been committed for trial”, shall be *inserted* and *after* the fourth proviso, the following explanation shall be *added*, namely:— Amendment of section 276 of Act V of 1898.
“*Explanation.*—In the second proviso, in respect of districts having less than three subdivisions, references to ‘subdivision’ and ‘committed for trial’ shall be construed as references to ‘police-station’ and ‘forwarded for trial or committal for trial’ respectively”.
4. In section 321 of the said Code, in sub-section (1) *after* the words “and make out”, the words “subdivision by subdivision and” shall be *inserted* and *for* the full-stop at the end a colon shall be *substituted* and *thereafter*, the following proviso shall be *added*, namely:— Amendment of section 321 of Act V of 1898.
“Provided that in respect of districts having less than three subdivisions, the list shall be prepared and made out police-station by police-station.”

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 12th August, 1953, Pt. IVA, p. 1246; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 26th, 28th and 31st August, 1953.

²The words within square brackets were substituted for the words “East Bengal” by E. P. Ord. XXVIII of 1960, First Schedule.

(Section 5.)

Amendment
of section
326 of Act V
of 1898.

5. For section 326 of the said Code, the following shall be substituted, namely:—

“326. (1) The Sessions Judge shall summon as many persons named in the said revised list or the said special list as seem to him to be needed for trials by jury and trials with the aid of assessors at the sessions, the number to be summoned not being less than double the number required for any such trials.

(2) The names of the persons to be summoned shall be drawn by the Sessions Judge in camera in such manner as to exclude,—

(a) those who belong to the subdivision from which the accused to be tried at the sessions has or have been committed for trial, and

(b) those who have served within six months unless the number cannot be made up without them.

Explanation.—In clause (a), in respect of districts having less than three subdivisions, references to ‘subdivision’ and ‘committed for trial’ shall be construed as references to ‘police-station’ and ‘forwarded for trial or committal for trial’ respectively.

(3) The persons whose names have been drawn under sub-section (2) shall, reasonably before the date fixed for holding the sessions, be summoned in such manner and with such instructions as may appear to the Sessions Judge to be suitable to keep the name of the persons summoned secret.”

East Bengal Act XXVI of 1953.

THE EAST BENGAL INLAND WATER TRANSPORT
(REGULATION OF EMPLOYMENT) ACT, 1953.¹

[14th November, 1953.]

An Act to regulate the methods of recruitment, payment of wages, conditions of service of persons employed in Inland Water Transport Service in ²[East Pakistan] and to provide for the inspection thereof, and for creating funds to carry out welfare measures for their benefit.

WHEREAS it is expedient to regulate the methods of recruitment, payment of wages, conditions of service of persons employed in Inland Water Transport Services and to provide for inspection thereof, and for creating funds to carry out welfare measures for their benefit;

It is hereby enacted as follows:—

1. (1) This Act may be called the East Bengal Inland Water Transport (Regulation of Employment) Act, 1953. Short title,
extent and
commence-
ment.

(2) It extends to the whole of ²[East Pakistan].

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

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

(a) "Board" means the Board established under section 3;

(b) "day" means a period of twenty-four hours beginning at midnight;

(c) "employee" means any person employed in any Inland Water Transport Vessel or a worker on land employed mainly and principally in connection with an Inland Water Transport Service or for the building, maintaining or repairing of vessels;

(d) "employer" means a person, a body of persons, Company or Institution, owning or being in

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 13th July, 1951, Pt. IVA, p. 700; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 19th October, and 5th November, 1951, 20th February, and 6th October, 1952 and 26th August, 1953.

²The words within square brackets were substituted for the words "East Bengal" by E. P. Ord. XXVIII of 1960. First Schedule.

(Section 2.)

charge of any Inland Water Transport Vessels which are mechanically propelled or other crafts or of a workshop for building, repairing or maintaining of such vessels or crafts;

- (e) "fund" means the Inland Water Transport Employees' Fund created under section 14;
- (f) "Government" means the Provincial Government;
- (g) "Inland Water Transport Vessel" means any steamers, flats, boats, barges, launches or other crafts plying on Inland Waterways in ¹[East Pakistan] for carriage of passengers, cattle, goods whether belonging to carrier himself or to the other parties or for any other purpose, but does not include a vessel used mainly on the open sea;
- (h) "notification" means a notification published in the *Official Gazette*;
- (i) "prescribed" means prescribed by rules made under this Act;
- (j) "wages" means all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, but does not include—
 - (i) the value of,—
 - (a) any house accommodation, supply of light, water, medical attendance, or
 - (b) any other amenity or any service excluded by general or special order of the Government;
 - (ii) any contribution paid by the employer to any Pension Fund or Provident Fund or under any scheme of Social Insurance;
 - (iii) any travelling allowance or the value of any travelling concession;
 - (iv) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or
 - (v) any gratuity payable on discharge; and
- (k) "week" means a period of seven days beginning at midnight on Saturday.

¹See foot-note 2 on page 481, *ante*.

(Sections 3—7.)

3. The Government shall establish a Board to be called "the¹[East Pakistan Water Transport (Regulation of Employment) Board", and such Board shall be a body corporate and have perpetual succession and a common seal, and shall by the said name sue and be sued.

Establishment of the Board.

4. (1) The Board shall consist of a Chairman and an equal number of representatives of employers and employees nominated or elected by such organisations of the employers and employees as the Government may direct in writing.

Constitution of the Board.

(2) If, by such date as the Government may fix, any organisation referred to in sub-section (1) fails to nominate or elect its representatives, the Government shall nominate persons to be members of the Board; and the persons so nominated shall be deemed to be members as if they had been duly nominated or elected by such organisation.

(3) The Government shall appoint a person to be the Chairman of the Board.

(4) The Chairman and the members of the Board shall elect a person to be their Vice-Chairman.

5. (1) Every member of the Board shall hold office for a term of three years.

Term of office.

(2) A member of the Board, notwithstanding the expiration of his term of office, shall continue to hold office until the vacancy caused by the expiration of the said term has been filled.

(3) A person ceasing to be a member by reason of the expiration of his term of office, shall, if otherwise qualified, be eligible for re-appointment.

6. The names of members of the Board shall be published by the Government in the *Official Gazette*.

Names of members to be notified in the *Official Gazette*.

7. The Government may, by notification, remove the Chairman or any member of the Board if he—

Removal of members.

(a) refuses to act or becomes incapable of acting as the Chairman or a member of the Board;

(b) is declared insolvent;

(c) has been convicted of any offence, involving moral turpitude, by a competent Court; or

(d) without sufficient excuse is absent without the consent of the Board for more than six consecutive meetings of the Board.

¹See foot note 2 on page 481 ante.

(Sections 8—10.)

Power of the
Board to
make by-
laws.

8. (1) Subject to the provisions of this Act and the rules made thereunder, the Board may make by-laws as to—

- (a) the minimum number of crew to be employed in each category of Inland Water Transport Vessel;
- (b) the minimum wages of various categories of employees;
- (c) the working hours and rest periods of employees in any week;
- (d) the measures to be taken by the employers for the medical treatment and good health of the employees;
- (e) the retiring benefits for the employees;
- (f) security of service of employees and other conditions of service;
- (g) discipline on board the vessel and stoppage of pilferage of cargo;
- (h) the maintenance of records of payment and service of employees; and
- (i) the collection of prescribed fees.

(2) All by-laws made under this section shall be published in the *Official Gazette* and shall come into force on the date of such publication.

(3) The provisions of the Payment of Wages Act, 1936, IV of 1936, shall apply to the modes and conditions of payment of wages to the employees under this Act.

(4) All employees shall be deemed to have been directly recruited by their employers who shall be responsible for the fulfilment of all the conditions of their employment and services.

Board to
frame its own
rules of busi-
ness.

9. The Board shall, subject to the provisions of this Act and the Government's approval, frame its own rules of business

Govern-
ment's power
of supervi-
sion and
delegation.

10. (1) The Government may make such enquiries as it deems fit to ascertain whether the provisions of this Act are being carried out satisfactorily.

(2) The power referred to in sub-section (1) may be delegated by a notification to the Board or to any other person as the Government may deem necessary.

(Sections 11—16.)

11. For the purposes of any enquiry under this Act, the Board or any person authorised by the Government in this behalf shall have the powers to summon and enforce the attendance of witnesses including the parties interested and to compel the production of documents by the same means, and, so far as may be, in the same manner as is provided in the Code of Civil Procedure, 1908.

Power to summon witnesses and compel the production of documents.

12. (1) All employers who employ more than seven employees shall pay every year a prescribed fee in the prescribed manner to the Board and obtain a receipt for the same.

Prescribed fee to be paid and required information to be supplied.

(2) All employers shall provide the Board with such information as may be required by it relating to the number and types of vessels operated by them and the number of persons employed.

13. The Government may contribute annually to the Board such amount as it may think fit.

Contribution by Government.

14. (1) All moneys realised or received by the Board for the purposes of this Act shall form a fund to be called "the Inland Water Transport Employees' Fund".

Fund of the Board.

(2) The Government may prescribe the mode of payment of moneys into the fund and the custody of such moneys.

(3) The Government may prescribe the purposes for which such moneys shall be disbursed and the mode of such disbursements.

(4) The fund shall, subject to the provisions of sub-sections (2) and (3), be administered by the Board.

15. (1) The Board shall keep such accounts of the receipts and disbursements of the fund as may be prescribed and shall submit the same for examination by auditors, when required by the Government.

Accounts of the Board.

(2) The accounts of the fund shall be audited annually by an auditor appointed by the Government.

16. (1) The Government may appoint Inspectors and other officers, as it may consider necessary, to carry out the purposes of this Act.

Staff.

(2) The Board may employ such clerical and menial staff as is sanctioned by the Government.

(3) The Board shall have power to appoint, promote, dismiss, discharge and grant leave to its clerical and menial staff.

(Sections 17—22.)

Power of
inspection.

17. Any person authorised by the Government by a notification may, for the purposes of this Act, at all reasonable times, enter into a vessel or any place which he has reason to believe is used in connection with the administration or business of any Inland Water Transport Service, with such persons in the service of the Government as he may deem necessary, and make such examination of the vessel or the place and of any record or register maintained therein and may require such explanation of any register, record or document as he may consider necessary for the purposes of this Act:

Provided that no person shall be required under this section to answer any question or give any evidence tending to incriminate himself.

Power of
the Govern-
ment.

18. The Government, after taking into consideration the views of the Board, may, by notification,—

- (a) reconstitute the Board subject to the provisions of section 4; and
- (b) exempt any class of employers from some or all the provisions of this Act, on such conditions, if any, as it may deem necessary.

Penalty.

19. (1) Whoever contravenes the provisions of section 12, shall, on conviction, be punishable with imprisonment of either description which may extend to three months or with fine which may extend to five hundred rupees.

(2) Whoever infringes any of the by-laws framed under section 8, shall, on conviction, be punishable with fine which may extend to rupees two hundred and fifty or with imprisonment which may extend to three months or with both, and, where the infringement is a continuing one, with a further fine which may extend to twenty-five rupees for everyday, after the first, during which the infringement continues.

Procedure.

20. No Court shall take cognizance of an offence punishable under this Act except upon complaint made by an officer appointed under sub-section (1) of section 16, or by a person authorised under section 17, or by the Chairman of the Board.

Public ser-
vant.

21. All persons empowered to act under this Act shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code.

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Indemnity.

22. No suit, prosecution or legal proceedings whatever shall lie against any person for anything in good faith done or intended to be done under this Act or any rules framed under this Act.

(Sections 23—25.)

23. There shall be paid to the Chairman and the members of the Board such fees, and such travelling allowances, as may be prescribed, for attendance at meetings of the Board or for inspecting any vessel, place or records. Payment of fees and travelling allowances.

24. Nothing in this Act shall affect adversely any right or privilege to which any employee is entitled at the date of the commencement of this Act under any other law for the time being in force or under any contract, custom or usage which is in force on that date. Saving of certain rights and privileges.

25. (1) The Government may make rules for carrying out the purposes of this Act. Rule-making power.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) method of inspection under sections 10 and 16;
- (b) the scale of fees and the manner of payment referred to in section 12;
- (c) mode of payment of moneys into the fund, custody and disbursement referred to in section 14;
- (d) manner in which the accounts of the fund shall be kept under section 15;
- (e) qualifications and pay of officers appointed under section 16; and
- (f) scale of fees and travelling allowances referred to in section 23.

East Bengal Act IV of 1954.

~~THE EAST BENGAL CONTROL OF DISORDERLY AND DANGEROUS PERSONS (GOONDAS) ACT,~~ 1954.¹

[30th July, 1954.]

An Act to provide for the better control of riotous and disorderly persons commonly known as goondas residing in or frequenting certain cities and towns in ²[East Pakistan].

WHEREAS it is expedient to provide for special measures for better control of disorderly persons commonly known as goondas in certain cities and towns in ²[East Pakistan] and the neighbourhood of those towns and cities and for ancillary matters ;

AND WHEREAS the Governor of East Bengal has, in pursuance of a proclamation, dated the 29th May, 1954, issued by the Governor-General of Pakistan under section 92A of the Government of India Act, 1935, assumed, on behalf of the Governor-General, all powers vested in or exercisable by the Provincial Legislature under the said Act ;

Now, THEREFORE, in exercise of the powers so assumed, the Governor is pleased hereby to enact as follows:—

1. (1) This Act may be called the East Bengal control of Disorderly and Dangerous Persons (Goondas) Act, 1954.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of ²[East Pakistan].

³(3) It shall come into force in such city or town and neighbouring areas thereof, and on such dates, as the Provincial Government may, by notification in the *Official Gazette*, direct.

2. Unless the context otherwise requires, all expressions used in this Act shall have the meanings assigned to them in the Pakistan Penal Code, 1860, or in the Code of Criminal Procedure, 1898.

Definitions.

XLV of
1860.
V of 1898.

¹ For Statement of Objects and Reasons, see *Dacca Gazette*, *Extraordinary*, dated the 30th July, 1954, Part III, p. 263 .

² The words within square brackets were substituted for the words "East Bengal" by E. P. Ord. XXVIII of 1960. First Schedule.

³ The Act came into force in the areas within the jurisdiction of Kotwali, Sutrapur, Lalbagh, Tejgaon, Keraniganj, Joydebpur, Kaliganj, Rupganj, Narayanganj and Fatullah Police-stations in the district of Dacca and in areas within the jurisdiction of Kotwali, Double Moorings, Panchlaish, Sitakunda and Patiya police-stations in the district of Chittagong with effect from the 13th August, 1954, vide Notifications No. 2612-Pl. and No. 2613-Pl. dated the 13th August, 1953, published in the *Dacca Gazette*, *Extraordinary*, dated the 13th August, 1954, Part I, pages 2683 and 2684.

(Sections 3—6.)

Constitution
of Tribunal.

3. The Provincial Government may, for the purposes of this Act, by notification in the *Official Gazette*, constitute for any city or town and neighbouring areas thereof to which this Act may be applied, a Tribunal (hereinafter called the Tribunal) consisting of the official for the time being holding the office of District Magistrate.

Powers of
Tribunal.

4. (1) For the purpose of conducting enquiries under this Act, the Tribunal shall have all the powers of a District Magistrate under the Code of Criminal Procedure, 1898, for issuing summonses and warrants for the production of witnesses and documents, for the examination of persons complained of and witnesses, and for issuing commissions for the examination of witnesses.

V of 1898.

(2) Proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of the Code of Criminal Procedure, 1898.

V of 1898.

(3) The Tribunal shall keep its records in English.

Contempt
Proceedings.

5. The Tribunal shall have the powers of a Court of Record for punishing contempts of its authority provided that the maximum period for which any person may be committed to prison under this provision, shall be three months.

Orders by
Tribunal.

6. The Tribunal shall not be bound to follow the rules of evidence prescribed under the Evidence Act, 1872, and may *inter alia* by written order—

I of 1872.

- (a) direct that the whole or any part of the enquiry against any person complained of shall be held in *camera* ;
- (b) for reasons to be stated in the order, accept evidence on affidavit of witnesses whose presence cannot be secured without such amount of delay or expense as would in the opinion of the Tribunal be unreasonable in the circumstances of the case, or any other ground sufficient in its opinion and connected with any matter arising in the case ;
- (c) for reasons to be stated in the order, record the statement of any witness in *camera* in the absence of the person complained against and his counsel, if the Tribunal is satisfied that the person complained against is deliberately evading appearance ;
- (d) receive in relation to the person complained of evidence of previous conviction or previous occasions of having been bound over to keep the peace or be of good behaviour ;

(Section 7.)

- (e) receive evidence of general repute in relation to the person complained of ;
- (f) direct any Magistrate having jurisdiction in the area to take such steps as may be necessary to protect the life and property of any person who has given or is required to give evidence in an enquiry under this Act ;
- (g) grant immunity from prosecution to any witness appearing in any enquiry under this Act, in respect of any matter relevant to the enquiry contained in his evidence; and
- (h) direct, with reference to specified portions of the record of the enquiry, that no copies or abstracts shall be made by or furnished to any person including the persons complained of.

7. (1) The Tribunal shall take cognizance of a case only when an information in respect of a specified person is laid before it by a police officer of the area concerned, not below the rank of an Inspector of Police who has taken part in the investigation of the case. The information shall be signed by the officer concerned and shall briefly set out—

Cognizance
of cases by
Tribunal.

- (a) the practices with which the person complained of is charged ;
- (b) instances, with details of time and place, of such practices ;
- (c) a statement of any relevant general reputation in which the said person is held and any other ground on which the information is based ;
- (d) names and other particulars of witnesses who will be produced to support the allegations contained in the information ; and
- (e) whether the said person is sought to be declared a goonda or a dangerous goonda.

(2) The officer laying the information may, if he thinks fit, enclose any of the above particulars in a sealed cover and request that the same be kept secret and the Tribunal shall order that such particulars shall not be disclosed at any stage of the enquiry, and that when the said particulars fall under clause (d) of sub-section (1) the name of the witness shall not be disclosed until such time as such witness is produced in evidence :

Provided that if the said officer or the person conducting the prosecution before the Tribunal desires that the name of any witness may not be disclosed at all, the Tribunal shall order accordingly.

(Sections 8—11.)

Summoning
of the per-
son com-
plained of.

8. On receipt of an information under section 7, the Tribunal shall summon the person complained of to appear before it and shall at the same time supply him with a copy of such portion of the information as is not to be kept secret under the provisions of the preceding section :

Provided that when the Tribunal is satisfied that such action is necessary, it may, in the very first instance or at any later stage of the enquiry, instead of issuing a summons or notice issue a warrant, non-bailable or bailable in such sum as may appear to it reasonable, for the arrest of the aforesaid person and his production before the Tribunal and may also issue such warrant if satisfied that the said person is hiding himself to evade service of the summons or if he does not appear in spite of the service of the summons.

Appearance
before Tri-
bunal.

9. (1) When the person complained of appears before it, the Tribunal may take a bond from him with or without sureties for his appearance during the enquiry or when called upon, as the case may be, and may also having regard to the nature of the information laid against him, require him to furnish a bond, with one or more sureties, in such sum as the Tribunal may think fit, to be of good behaviour until the conclusion of the enquiry, and may direct that he may be detained in custody until such bond is executed, or in default of execution, until the enquiry is concluded.

(2) The Tribunal may, for reasons to be recorded, instead of taking a bond for the appearance of the person complained of, order his detention in such custody as may be prescribed by the Provincial Government by a general or special order till the conclusion of the enquiry by it.

Proceedings
before Tri-
bunal.

10. The Tribunal shall then proceed to enquire into the truth or otherwise of the information upon which action has been taken, and for that purpose to take such evidence as may appear necessary, following in all cases the procedure prescribed in the Code of Criminal Procedure, 1898 for conducting trials and recording evidence in summary cases, but subject to the other provisions of this Act:

V of 1898.

No *de novo*
proceedings.

11. It shall not be necessary for the Tribunal to record the evidence of any witness *de novo* by reason only of a change in its own composition, but the Tribunal may at any time summon and examine any person, who in its opinion, is capable of giving information relevant to any matter under enquiry notwithstanding that such person has already given evidence in such enquiry.

(Sections 12, 13.)

12. Where two or more persons are associated together with regard to any matter covered by the allegations contained in the information respectively laid in respect of each, to an extent which in the opinion of the Tribunal justifies such a course, the enquiry into the matter with regard to which they are associated together may be conducted against all or any of them jointly, or against each of them separately, as the Tribunal shall think just. Joint proceedings.

(1) If the Tribunal is satisfied, as a result of enquiry held, under this Act, that the person complained against— Declaration of goondas and dangerous goondas.

frequents for immoral purposes houses or localities inhabited by prostitutes ; or

frequents resorts of vice such as drinking or gambling dens, or places where opium or other intoxicating drugs are smoked or otherwise consumed ; or

generally appears in public while drunk ; or

is addicted to smoking opium ; or

uses obscene or abusive language in public ; or

makes fraudulent collection in the name of charity ;

is involved in affray, rowdism or acts of intimidation or violence in any place private or public so as to cause alarm to the people living or frequenting the neighbourhood ;

It may declare that such person is a goonda and direct that his name be publicly notified in the prescribed manner, and placed on the prescribed list of goondas.

(2) If the Tribunal is satisfied, as a result of enquiry as aforesaid, that any person complained against—

(a) having previously been declared a goonda has since such declaration acted in any manner specified in the preceding sub-section, or has contravened any prohibitory order published under section 15 made in respect of him by the Tribunal ; or

(b) corrupts young persons, by initiating them in the practice of any vice which if established against any person to the satisfaction of the Tribunal would entail his being declared a goonda or a dangerous goonda under this section ; or

(Section 13.)

- (iii) annoys or molests other persons, particularly women or young persons ; or
- (iv) publishes, distributes, circulates, sells or offers for sale an obscene book or picture or other objects ; or
- (v) does obscene acts including wilfully exposing his person in public ; or
- (vi) insults the modesty of women by using foul language or making indecent sounds or gestures, or by exposure of his person or the person of any other individual or of any object or otherwise howsoever, or
- (vii) engages in kidnapping or seducing women or young persons or procuring women or young persons for immoral purposes ; or
- (viii) indulges in unnatural carnal intercourse ; or
- (ix) keeps a drinking or gambling den, or place where opium or other intoxicating drugs are smoked or otherwise consumed, or makes livelihood out of such den or place by acting as a tout or otherwise howsoever, or engages in the illicit manufacture or sale of liquor or opium or other intoxicating drugs ; or
- (x) behaves riotously in public by entering into affrays, or otherwise howsoever ; or
- (xi) causes fear or alarm to the public or any section or member thereof, by issuing threats verbally or in writing, or by making, publishing or circulating false statements, rumours or reports ; or
- (xii) is a bully, who assaults or threatens persons with the object of causing fear or alarm, or to compel them to act or not to act in a manner in which they are not bound to act, or as the case are entitled to act ; or
- (xiii) makes livelihood, or extorts money or property, or seeks any concession or favour from any one, by any form of intimidation ; or
- (xiv) utters counterfeit coins ; or
- (xv) is by habit a smuggler of goods through customs or octroi or other tax barriers, without payment.

(Section 16.)

The Tribunal may, where a person who has furnished a bond for his appearance makes default, direct, in addition to action under the other provisions of this Act, that a warrant shall be issued for the production of such person, which may be bailable or non-bailable as the Tribunal may direct.

(3) Where default is made in furnishing sureties, the Tribunal may direct that the person from whom such sureties were demanded shall be committed to prison or if he is already in prison, shall be detained in prison, until the sureties furnished or the period for which the security is demanded expires, or the Tribunal makes an order for the release of the person detained, whether conditional or otherwise.

(4) Any surety may apply to be released from obligation of his bond, and the Tribunal may, after such enquiry as it may deem fit, call upon the person who is bound down to furnish a fresh surety, and thereupon the provisions of sections (1) and (3) shall apply in relation thereto:

provided that the surety seeking release shall not be freed from his obligations unless a fresh surety has been put in his place or in case no surety is furnished or, if not, he produces the person concerned before the Tribunal.

(5) The provisions of section 514 of the Code of Criminal Procedure, 1898, shall apply in respect of the forfeiture of bonds furnished under this Act, as if for the expression 'Court' the expression 'Tribunal' wherever applicable for the purposes of this Act, were substituted, and as if from sub-section (1) of the said section, the reference to a Magistrate of the first class were omitted, and as if in sub-section (7) of the said section—

- (i) the reference to section 106 or section 118 or section 562 of that Code were replaced by a reference to clause (1) (b) of section 14 of this Act; and
- (ii) the reference to a bond executed in lieu of the bond under section 514B of that Code were replaced by a reference to the proviso to clause (1) (b) of section 14 of this Act.

(6) A breach of any order made against any person under clause (1) (c) or clause (2) (a) or clause (2) (b) of section 14, or the commission of any offence which is punishable with imprisonment under any law for the time being in force and which in the opinion of the Tribunal involves or implies moral turpitude, shall amount to a breach of a bond for good behaviour which may have been furnished by him under this Act.

(Sections 17—19.)

Revision of
Tribunals
orders.

17. No appeal shall lie from any order made by the Tribunal but in relation to any such order under section 8 or section 13 or section 16, the High Court may call for the record of the case, and if the Tribunal appear—

- (a) to have exercised a jurisdiction not vested in it by law,
- (b) to have failed to exercise a jurisdiction so vested, or
- (c) to have acted in the exercise of its jurisdiction illegally,

the High Court may make such direction as it may deem sufficient for the rectification of the error or omission and the Tribunal shall conduct itself accordingly.

Enhanced
punishments
in some
cases.

18. Notwithstanding anything contained in the Pakistan Penal Code, the Whipping Act, 1909, or any other law for the time being in force, when a dangerous goond convicted under an Act mentioned in the first column of the Schedule to this Act for an offence punishable under any of the sections of that Act mentioned against it in the second column of the said Schedule, the maximum punishment may be awarded, on such conviction shall be that applicable in the corresponding entry in the third column of the said Schedule.

Procedure
where
a person
absconds or
conceals
himself.

19. If the Tribunal has reason to believe that a person against whom a warrant of arrest has been issued under section 8, has absconded, or is concealing himself, so that the warrant cannot be executed, it may—

- (a) send a report to a Magistrate having jurisdiction in the area where the person complained of or primarily resides or has his property or is present, and the said Magistrate shall take proceedings under sections 87, 88 and 89 of the Code of Criminal Procedure, 1898, in respect of the person and his property as if the warrant were a warrant issued by the said Magistrate; or
- (b) by order notified in the *Official Gazette* direct the said person to appear before it, at such time and within such period as may be specified in the order; and if the said person omits to comply with such direction, he shall, unless he proves that it was not possible for him to comply therewith and that he had at the first possible opportunity within the period sent information to the Tribunal of the reasons which rendered compliance therewith impossible and of his whereabouts, be deemed to have evaded compliance with the order.

(Sections 20—25.)

20. Every person in respect of whom an order has been made under section 13 of this Act, shall, if so directed by the Tribunal present himself before such officer of the Government and at such place and time as may be specified in the order—

Photographs, fingerprints, etc.

i) for being photographed;

ii) for giving his finger impressions or if literate, specimens of his handwriting and signature; and such person shall allow himself to be photographed and shall affix his finger impressions as required or as the case may be supply specimens of his handwriting and signature.

V of 18. 21. Notwithstanding anything contained in any other laws for the time being in force, every offence punishable under this Act, shall, within the meaning of the Code of Criminal Procedure, 1898, be cognizable and non-bailable.

Offences cognizable and non-bailable.

22. No proceedings taken or orders passed under this Act, shall be called in question otherwise than as provided hereunder and no civil or criminal proceedings shall be instituted against any person for anything done or intended purporting to be done under this Act, or against any person for any loss or damage caused to or in respect of any property, as a result of an act done or purporting to be done under this Act.

Bar of Civil or Criminal proceedings.

23. The provisions of this Act, and any order made under this Act, shall have effect notwithstanding anything inconsistent therewith contained in any enactment, other than this Act, for the time being in force, and in any instrument having effect by virtue of any such enactment other than this Act.

Effect of other law and enactments.

24. (1) A breach of any order made under clause (c) or clause (2) (a) or clause (2) (b) of section 14 shall be punishable with imprisonment of either description which in the case of a goonda may extend to one year and in the case of dangerous goonda to three years.

Penalty for breaches of orders.

(2) A breach of any order made or direction given under this Act not otherwise provided for shall be punishable with imprisonment of either description which may extend to one year or with fine or with both.

25. (1) The Provincial Government shall, in each city or town for which a Tribunal has been constituted, appoint an officer of police not lower in rank than a Deputy Superintendent of Police to be a Probation Officer.

Appointment and duties of Probation Officer.

(Sections 25—27.)

(2) It shall be the duty of the Probation Officer under the general control of the Tribunal—

- (a) to have the superintendence of all goonda and dangerous goondas in the city or town in which he has been appointed with a view to preventing them from evil association and assisting in their rehabilitation as useful citizens;
- (b) to make reports at prescribed times and in the prescribed manner to the Tribunal regarding the general behaviour of each such goonda, and the manner of dealing with him;
- (c) to make recommendations, as and when justified by the general behaviour of any such goonda for releasing him from any bond for good behaviour or from any order of prohibition or detention made in respect of him under sub-section (1) (b) or sub-section (1) (c) or sub-section (2) (d) or sub-section (2) (b) of section 14, as the case may be; and
- (d) to make recommendations, as and when justified by marked improvement in the general behaviour, manner of life and character of any goonda or dangerous goonda that his name may be removed from any list on which it is carried.

Action on
Probation
Officer's
report.

26. On receipt of a periodical report, or as the case may be, a recommendation, from the Probation Officer, the Tribunal may in the case of any goonda or dangerous goonda after such enquiry as it may deem necessary, direct—

- (a) that he be released from any bond for good behaviour furnished by him or on his account and from any order of detention or of prohibition made in respect of him under section 14; or
- (b) that his name be removed from the list of goondas or dangerous goondas, as the case may be.

Secret
record.

27. The record of the proceedings held by the Tribunal or any portion thereof for which the person laying the information or conducting the prosecution before the Tribunal, has claimed privilege before the Tribunal or who he has requested for being kept a secret shall not be available for inspection by any one during the enquiry before the Tribunal or any revision proceedings before the High Court hearing the revision, or after the disposal of the case, and such records shall after the disposal of the enquiries be kept in such custody as the Provincial Government may prescribe.

of 1954.]

(Section 28 and the Schedule)

28. (1) The Provincial Government may make rules, Rules.
not inconsistent with the provisions of this Act, for carrying
out the purposes of this Act.

(2) Without prejudice to the generality of the power
conferred by sub-section (1), such rules may provide for—

- (a) the lists to be¹ maintained in which the names of
goondas or dangerous goondas are to be regis-
tered, and the manner of such registration ;
- (b) the manner in which the names of persons who
are declared to be goondas or dangerous goondas
shall be publicly notified ;
- (c) the manner in which an order under clause (a) of
sub-section (2) of section 14 operate ; and
- (d) the periods for which and the manner in which
Probation Officer shall make reports to the
Tribunal regarding the general behaviour of
goondas and dangerous goondas.

THE SCHEDULE.

(See section 18.)

Part I—Central Acts.

Short Title.	Sections.	Maximum punishment.
1	2	3
1 Pakistan Penal Code (XLV of 1860).	1. Sections 143, 144, 151 and 153.	Two years' rigorous imprison- ment.
	2. Section 153A ..	Five years' rigorous imprison- ment and whipping.
	3. Sections 157 and 158.	Three years' rigorous imprison- ment.
	4. Section 160 ..	Two years' rigorous imprison- ment.
	5. Sections 172, 173, 174 and 182.	One year's rigorous imprison- ment.

(The Schedule.)

Short Title.	Sections.	Maximum punishment.
1	2	3
1. Pakistan Penal Code (XLV of 1860)-- <i>contd.</i>	6. Sections 186 and 188.	Two years' rigorous imprisonment and whipping.
	7. Sections 189 and 190.	Three years' rigorous imprisonment and whipping.
	8. Sections 224, 225, Parts I and II.	Five years' rigorous imprisonment and whipping.
	9. Section 225, Parts III, IV and V.	Whipping in addition to the punishment provided under the Pakistan Penal Code.
	10. Sections 225B and 228.	Two years' rigorous imprisonment and whipping.
	11. Sections 292, 293 and 294.	Two years' rigorous imprisonment and whipping.
	12. Section 341 ..	One year's rigorous imprisonment and whipping.
	13. Sections 342, 343, 344, 345, 346 and 347.	Whipping in addition to the punishment provided under the Pakistan Penal Code.
	14. Section 352 ..	Two years' rigorous imprisonment and whipping.
	15. Sections 353, 354, 355 and 356.	Whipping in addition to the punishment provided under the Pakistan Penal Code.
	16. Section 357 ..	Two years' rigorous imprisonment and whipping.
	17. Sections 363, 365, 366, 366A, 367, 368, 369, 372, 373 and 377.	Whipping in addition to the punishment provided under the Pakistan Penal Code.
	18. Sections 411 and 414.	Five years' rigorous imprisonment.
	19. Sections 417, 418 and 419.	Five years' rigorous imprisonment.

of 1954.]

(The Schedule.)

Short Title.	Sections.	Maximum punishment.
1	2	3
1. Pakistan Penal Code (XLV of 1860)— <i>contd.</i>	20. Sections 384, 385, 386, 387, 388, 389, 392, 399, 401 and 402.	Whipping in addition to the punishment provided by the Pakistan Penal Code.
	21. Section 465 ..	Five years' rigorous imprisonment.
	22. Section 498 ..	Five years' rigorous imprisonment and whipping.
	23. Sections 504, 506, 507, 508 and 509.	Whipping in addition to the punishment provided under the Pakistan Penal Code.
	24. Section 510 ..	Six months' rigorous imprisonment and whipping.
2. Public Gambling Act, 1867 (III of 1867).	1. Sections 3, 4, 7, 13.	One year's rigorous imprisonment for the first, and two years' rigorous imprisonment for any subsequent offence.
3. Opium Act, 1878 (I of 1878).	1. Section 9 ..	Five years' rigorous imprisonment and shall also be liable to fine.

Part II—Bengal Act.

1. Bengal Excise Act, 1909 (Bengal Act V of 1909).	1. Section 46 ..	Five years' rigorous imprisonment and shall also be liable to fine.
	2. Section 48 ..	Two years' rigorous imprisonment and shall also be liable to fine.
	3. Section 52 ..	Two years' rigorous imprisonment and shall also be liable to fine.
	4. Section 53 ..	One year's rigorous imprisonment and shall also be liable to fine.

East Bengal Act IX of 1954.

THE POLICE (EAST BENGAL AMENDMENT) ACT,
1954.¹

[17th August, 1954.]

An Act to amend the Police Act, 1861.

V of 1861. WHEREAS it is expedient to amend the Police Act, 1861 for the purpose hereafter appearing;

26 Geo. V, Ch. 2. AND WHEREAS the Governor of East Bengal has, in pursuance of a Proclamation, dated the 29th May, 1954 issued by the Governor-General of Pakistan under section 92-A of the Government of India Act, 1935, assumed, on behalf of the Governor-General, all powers vested in or exercisable by the Provincial Legislature under the said Act;

Now, THEREFORE, in exercise of the powers so assumed, the Governor is pleased hereby to enact as follows:—

1. (1) This Act may be called the Police (East Bengal Amendment) Act, 1954.

Short title and commencement.

(2) It shall come into force at once.

2. For section 17 of the Police Act, 1861, the following shall be substituted, namely:—

Substitution of section 17 of Act V of 1861.

LVIII of 1952.

“17-(1) When it shall appear that any unlawful assembly, or riot or disturbance of the peace has taken place or may be reasonably apprehended, or that an offence under the Prevention of Smuggling Act, 1952, has been committed or may be reasonably apprehended, and that the police force ordinarily employed for preserving the peace or for prevention of an offence under the Prevention of Smuggling Act, 1952, is not sufficient, for preservation of peace and for protection of the inhabitants and security of the property in the place where such unlawful assembly or riot or disturbance of the peace has occurred or is apprehended, or for prevention of such offence, it shall be lawful, for any police officer not below the rank of an Inspector to apply to the nearest Magistrate, and for the District Magistrate or the Subdivisional Magistrate on his own motion, to appoint so many of the residents of the neighbourhood, as such police officer may require or the District Magistrate or the Subdivisional Magistrate may deem proper, to act as special police officers for such time and within such limits as the Magistrate

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 17th August, 1954, Part III, p. 2794-95.

[E. B. Act IX of 1954.]

(Section 2.)

or the District Magistrate or the Subdivisional Magistrate shall deem necessary; and the Magistrate to whom such application is made by the police officer shall, unless he see *cause to the contrary, comply with the application.

- (2) The names of the special police officers appointed under sub-section (1) shall forthwith be forwarded to the District Superintendent."

*Sic.

East Bengal Act XII of 1954.

THE EAST BENGAL STATE ACQUISITION AND
TENANCY (AMENDMENT) ACT, 1954¹.

[30th August, 1954.]

An Act further to amend the East Bengal State Acquisition and Tenancy Act, 1950.

E. B. Act
XXVIII
of 1951. WHEREAS it is expedient further to amend the East Bengal State Acquisition and Tenancy Act, 1950, for the purposes and in the manner hereinafter appearing;

26 Geo.
V, Ch. 2. AND WHEREAS the Governor of East Bengal has, in pursuance of a proclamation, dated the 29th May, 1954, issued by the Governor-General of Pakistan under section 92-A of the Government of India Act, 1935, assumed, on behalf of the Governor-General, all powers vested in or exercisable by the Provincial Legislature under the said Act;

NOW, THEREFORE, in exercise of the powers so assumed, the Governor is pleased hereby to enact as follows:—

1. (1) This Act may be called the East Bengal State Acquisition and Tenancy (Amendment) Act, 1954. Short title.

(2) Sections 6, 7, 9 and 10 shall be deemed to have come into force on the first day of January, 1952 and the remaining sections shall come into force on the date of publication of this Act in the *Official Gazette*.

2 to 15. [Repealed by the East Pakistan Repealing and Amending Ordinance, 1960 (E. P. Ord. XXVIII of 1960)].

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 30th August, 1954, p. 2918.

East Bengal Act XIV of 1954.
THE EAST BENGAL SCHOOL TEXT-BOOK ACT,
1954.¹

[23rd September, 1954.]

An Act to make provision for establishment of a School Text-Book Board in ²[East Pakistan.]

WHEREAS it is necessary to achieve improvement in the quality of the text-books of the primary and secondary stages and for that purpose to establish a Board;

AND WHEREAS the Governor of East Bengal has, in pursuance of a Proclamation, dated the 29th May, 1954, issued by the Governor-General of Pakistan under section 92-A of the Government of India Act, 1935, assumed on behalf of the Governor-General, all powers vested in or exercisable by the Provincial Legislature under the said Act;

26 Geo.
V, Ch. 2.

NOW, THEREFORE, in exercise of the powers so assumed, the Governor is pleased hereby to enact as follows:—

1. (1) This Act may be called the East Bengal School Text-Book Act, 1954. Short title,
extent and
commence-
ment.

(2) It extends to the whole of ²[East Pakistan.]

(3) It shall come into force 'on such date' as the Provincial Government may, by notification in the *Official Gazette*, direct.

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

(a) "Board" means the East Pakistan School Text-Book Board established under section 3;

(b) "prescribed" means prescribed by the Regulations made under this Act; and

(c) "school" means any educational institution up to and including the secondary stage whether established, recognised or approved by any law or not.

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 23rd September, 1954, Pt. III, p. 2963. The Act was extended to those areas of the Mymensingh district which were known as "Partially Excluded Areas" immediately before the coming into force of the constitution which was abrogated by the Presidential Proclamation of the 7th October, 1958, vide Notification No. 5377, dated 30th November 1954, published in the *Dacca Gazette, Extraordinary*, dated 16th December, 1954, Pt. I, p. 1292.

²The words within square brackets were substituted for the words "East Bengal" by E. P. Ord. XXVIII of 1960, First Schedule.

³The Act came into force with effect from 22nd October, 1954, vide Notification No. 3030 Edn., dated 18th October, 1954, published in the *Dacca Gazette, Extraordinary*, dated 18th October, 1954, Pt. I, p. 3055.

(Sections 3, 4.)

Establish-
ment of the
Board.

3. The Provincial Government may, by notification in the *Official Gazette*, establish a Board to be called "the East Pakistan School Text-Book Board" for the purpose of carrying out the provisions of this Act and such Board shall be a body corporate and have perpetual succession and a common seal and shall, by the said name, sue and be sued.

Constitution
of the Board.

4. ¹[(1) The Board shall consist of the following members, namely:—

- (a) The President to be appointed by the Provincial Government;
- (b) The Director of Public Instruction, ²[East Pakistan,] *ex-officio*;
- (c) The President, East Pakistan Secondary Education Board, *ex-officio*;
- (d) Four members to be appointed by the Provincial Government to represent persons interested in education;
- (e) Two members to be appointed by the Provincial Government from amongst the members of the East Bengal Legislative Assembly;
- (f) One member to be appointed by the Provincial Government to represent the minority communities in ²[East Pakistan];
- (g) One member to be appointed by the Provincial Government to represent Madrasah Education in ²[East Pakistan];
- (h) One member to be appointed by the Provincial Government to represent Primary Education;
- (i) One member, being an officer of the Provincial Government, to be appointed by the Provincial Government as Member-Secretary.]

(2) The President and members, other than *ex-officio* members, of the Board shall be appointed upon such conditions and for such period as the Provincial Government may think fit.

¹This sub-section was substituted for the original sub-section (1) by the E.B. School Text-Book (Amendment) Ordinance, 1956 (E.B. Ord. No. II of 1956), section 3, which shall be deemed to have come into force on the first day of July, 1955.

²The words within square brackets were substituted for the words "East Bengal" by E.P. Ord. XXVIII of 1960, First Schedule.

of 1954.]

(Sections 5—10.)

5. Subject to the provisions of this Act and the Regulations made thereunder, the functions of the Board shall include—

Functions of the Board.

- (a) approval of text-books for schools;
- (b) preparation, publication and sale of text-books for schools;
- (c) approval of prize books for schools;
- (d) approval of library and reference books for schools;
- (e) encouragement of useful literature and preparation, publication and sale of such literature; and
- (f) distribution of text-books ¹[and other books] free of cost to poor and deserving students.

6. No book which has not been approved as a Text-Book by the Board or which has not been prepared and published by it shall be prescribed as a Text-Book in any school:

Text-Book for Schools.

Provided that the Provincial Government may, by notification in the *Official Gazette*, exempt any school, or category of schools from the operation of this section.

7. The Board may call for any information, return or report in respect of a book from the publisher applying for its approval as a text-book or from the publisher of a book approved as a text-book and such publisher shall furnish correct and true information, return or report as the case may be.

Information, report, etc. from the publishers.

8. The Board may demand such royalty, for approval of a book as a text-book, from its publisher, as may be determined by the Board.

Royalty

9. The Board may, subject to such conditions as may be prescribed, determine the number, designation and grades of officers and servants whom the Board considers it necessary to employ for the purposes of this Act and the amount and nature of the salary, fees and allowances to be paid to each such officer and servant.

Determination of number, designation, etc., of officers and servants of the Board.

10. The power of appointing, promoting and granting leave to officers and servants of the Board and reducing in rank, suspending or dismissing them for misconduct shall, subject to such conditions as may be prescribed, be vested in the Board.

Power of appointment, suspension, etc., of officers and servants of the Board.

¹These words were inserted by section 4 of E. B. Ord. II of 1956, which shall be deemed to have come into force with effect from the 1st July, 1955.

(Sections 11—13.)

Delegation
of power to
the President.

11. The Board may, from time to time, authorise its President to exercise and perform, subject to the control of the Board, any of the powers and duties conferred or imposed on the Board by or under this Act.

Text-Book
Fund.

12. (1) There shall be constituted a fund called the Text-Book Fund to which shall be credited all sums received by or on behalf of the Board.

(2) All moneys payable to the credit of the Text-Book Fund shall forthwith be paid into a Government Treasury.

(3) The Text-Book Fund shall be vested in the Board and shall be administered by the Board and applied for the purpose of this Act in such manner as may be prescribed.

Power to
call for in-
formation
and report.

¹[12A. The Provincial Government may call for any information or report from the Board on any matter and it shall be the duty of the Board to furnish such information or report to the Provincial Government within a reasonable time or within the time specified by the Provincial Government.

Enquiry
into the
affairs of
the Board.

12B. The Provincial Government may cause an enquiry to be made into the affairs of the Board by such person or persons as the Provincial Government may deem fit and such person or persons after making the necessary enquiry shall submit the report to the Provincial Government which may direct the Board to take necessary action on such report as the Provincial Government may deem proper.

Provincial
Govern-
ment's
power to
pass orders.

12C. Notwithstanding anything contained in this Act, if, in the opinion of the Provincial Government, the Board has shown its incompetency to perform, or has persistently made default in the performance of the duties imposed on it by or under this Act, the Provincial Government may pass such order as it may deem fit and the Board shall be bound to carry out such order.]

Regulations.

13. (1) Subject to the previous approval of the Provincial Government, the Board may make Regulations for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such Regulations may provide for all or any of the following matters, namely:—

(a) the procedure to be observed at a meeting of the Board and the number of members required to form a quorum;

¹ These sections were inserted by the East Bengal School Text-Book (Amendment) Ordinance, 1956 (E.B. Ord. No. II of 1956), section 5, which shall be deemed to have come into force with effect from the 1st July, 1955.

of 1954.]

(Section 13.)

- (b) the manner of submission of books for the approval of the Board as text-books and for payment of fees therefor;
- (c) the manner of imposition and realisation of royalty;
- (d) the conditions subject to which the number, designation and grades of the officers and servants of the Board and the amount and nature of their salaries, fees and allowances shall be determined;
- (e) the conditions of appointment, promotion, leave, reduction in rank, suspension and dismissal of officers and servants of the Board;
- (f) the head of account to which the money payable to the credit of the Text-Book Fund shall be paid and the manner of receipt to and expenditure from that Fund and administration and audit thereof;
- (g) preparation of panel of expert reviewers on each subject and for fixation of their honoraria;
- (h) the manner in which text-books are to be prepared, published and sold and for fixation and payment of honoraria for preparation of such books; and
- (i) the type of paper, illustration, printing and format of a text-book.

EAST PAKISTAN ACT I OF 1956.

THE EAST PAKISTAN CONTROL OF ESSENTIAL
COMMODITIES ACT, 1956.¹

[22nd September, 1956.]

An Act to provide for powers to control the production, treatment, keeping, storage, movement, transport, supply, distribution, disposal, acquisition, use or consumption of, and trade and commerce in, certain commodities.

WHEREAS it is expedient to provide for powers to control the production, treatment, keeping, storage, movement, transport, supply, distribution, disposal, acquisition, use or consumption of, and trade and commerce in, certain commodities within East Pakistan;

It is hereby enacted as follows:—

1. (1) This Act may be called the East Pakistan Control of Essential Commodities Act, 1956. Short title,
extent and
commence-
ment.

(2) It extends to the whole of East Pakistan.

(3) It shall come into force at once.

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

(a) “essential commodity” means any of the following classes of commodities:—

(i) foodstuffs;

(ii) cotton and woollen textiles;

(iii) paper including paper-board, pulp-board, wall-board, fibre board, straw board, box-board, cellulose wadding, cellulose films and other similar materials which are manufactured wholly or mainly either from vegetable fibres or a pulp thereof or both from such fibres and such pulp, but does not include any of these materials;

(iv) mechanically propelled vehicles, their spare parts and tyres and tubes for the same;

(v) coal;

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 4th August, 1956, Pt. IVA, p. 773; for proceedings in the Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on 18th and 19th September, 1956.

(Sections 2, 3.)

- (vi) iron and steel;
- (vii) mica;
- (viii) drugs and medicines, including those administered by injection;
- (ix) chemicals including gases;
- (x) electrical and radio goods and appliances, including wires and cables;
- (xi) medical and surgical instruments and appliances;
- (xii) glass and glassware including scientific laboratory equipment;
- (xiii) artificial silk yarn;
- (xiv) cycles, their spare parts, and tyres and tubes for the same;
- (xv) matches;
- (xvi) timber;
- (xvii) sanitary and water supply fittings;
- (xviii) infant and patient foods and allied articles;
- (xix) cement;
- (xx) cigarettes;
- (xxi) fertilisers;
- (xxii) tallow;
- (xxiii) torch cells;
- (xxiv) such other classes of commodities as declared by the Provincial Government notification in the *Official Gazette* to essential commodities for the purposes of this Act;
- (b) "foodstuffs" shall include edible oilseeds and oils;
- (c) "notified order" means an order notified in the *Official Gazette*; and
- (d) "paper" shall include newspaper.

3. (1) The Provincial Government, so far as it appears to it to be necessary or expedient for maintaining, or increasing supplies of any essential commodity or for securing its equitable distribution and availability at fair prices, may by notified order provide for regulating, or prohibiting the production, treatment, keeping, storage, movement,

Powers to control production, supply, distribution, etc., of essential commodities

of 1956.]

(Section 3.)

transport, supply, distribution, disposal, acquisition, use or consumption thereof and trade and commerce therein.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), an order made thereunder may provide—

- (a) for regulating by licences, permits or otherwise the production or manufacture of any essential commodity;
- (b) for controlling the prices at which any essential commodity may be bought or sold;
- (c) for regulating by licences, permits or otherwise the storage, transport, distribution, disposal, acquisition, use or consumption of any essential commodity;
- (d) for prohibiting the withholding from sale of any essential commodity kept for sale;
- (e) for requiring any person holding stock of an essential commodity to sell the whole or a specified part of the stock at such prices and to such persons or class of persons or in such circumstances, as may be specified in the order;
- (f) for regulating or prohibiting any class of commercial or financial transactions relating to food-stuffs or cotton textiles which, in the opinion of the authority making the order are, or if unregulated are likely to be, detrimental to public interest;
- (g) for requiring persons engaged in the production, supply or distribution of, trade or commerce in, any essential commodity to maintain and produce for inspection such books, accounts and records relating to their business and to furnish such information relating thereto, as may be specified in the order;
- (h) for any incidental and supplementary matters, including in particular the entering, and search of premises, vehicles, vessels and aircraft, the seizure by a person authorised to make such search of any articles in respect of which such person has reason to believe that a contravention of the order has been, is being, or is about to be committed, or any records connected therewith, the grant or issue of licences, permits or other documents and the charging of fees therefor and for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters.

(3) An order made under sub-section (1) may confer powers and impose duties upon the Provincial Government, or officers and authorities of the Provincial Government.

(4) The Provincial Government, so far as it appears to it to be necessary for maintaining or increasing the production and supply of an essential commodity, may by order authorise any person (hereinafter referred to as an authorised controller) to exercise, with respect to the whole or any part of any such undertaking engaged in the production and supply of the commodity as may be specified in the order, such functions of control, as may be provided by the order; and so long as an order made under this sub-section is in force with respect to any undertaking or part thereof—

(a) the authorised controller shall exercise his functions in accordance with any instruction given to him by the Provincial Government, so however, that he shall not have any power to give any direction inconsistent with the provisions of any Act or other instrument determining the functions of the undertakers except in so far as may be specifically provided by the order; and

(b) the undertaking or part shall be carried on, in accordance with any directions given by the authorised controller in accordance with the provisions of the order, and any person having any functions of management in relation to the undertaking or part shall comply with any such directions.

Delegation
of powers.

4. The Provincial Government may by notified order direct that the power to make orders under section 3 shall, in relation to such matters and subject to such condition, if any, as may be specified in the direction, be exercisable also by such officer or authority subordinate to the Provincial Government or as may be specified in the direction.

Effect of
orders inconsis-
tent with
other enact-
ments.

5. Any order made under section 3 shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

Penalties.

6. (1) If any person contravenes any order made under section 3, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both, and if the order so provides, any Court trying such contravention may direct that any property in respect of which the Court is satisfied that the order has been contravened shall be forfeited to the Provincial Government:

Provided that where the contravention is of an order relating to foodstuffs which contains an express provision in this behalf, the Court shall make such direction, unless for

of 1956.]

(Sections 7—9.)

reasons to be recorded in writing it is of opinion that the direction should not be made in respect of the whole, or, as the case may be, a part, of the property.

(2) The owner of any vessel, conveyance or animal carrying any property in respect of which an order under section 3 is contravened shall, if the carrying is part of the transaction involving the contravention and if he knew or had reason to believe that the contravention was being omitted, be deemed to have contravened the order, and in addition to the punishment to which he is liable under sub-section (1), the vessel, conveyance or animal shall when the order provides for forfeiture of the property in respect of which the order is contravened, be forfeited to the Provincial Government.

(3) If any person to whom a direction is given under sub-section (4) of section 3 fails to comply with the direction he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

7. Any person who attempts to contravene, or abets a contravention of, any order made under section 3 shall be deemed to have contravened that order. Attempts and abetments.

8. If the person contravening an order made under section 3 is a company or other body corporate, every director, manager, secretary or other officer or agent thereof shall, unless he proves that contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention. Offences by Corporations.

9. If any person— False statement.

(i) when required by an order made under section 3 to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false, or does not believe to be true, or

(ii) makes any such statement as aforesaid in any book, account, record, declaration, return or other document which he is required by any such order to maintain or furnish, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

(Sections 10—15.)

Cognizance
of offences.

10. No Court shall take cognizance of any offence punishable under this Act except on a report in writing of the fact constituting such offence made by a person who is a public servant as defined in section 21 of the Pakistan Penal Code, 1860. XLV of 1860.

Power to try
offences
summarily.

11. Any Magistrate or bench of Magistrate empowered for the time being to try in summary way the offences specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898 may, on application in this behalf being made by the prosecution, try in accordance with the provisions contained in section 262 of the said Code any offence punishable under this Act. V of 1898.

Special
provision
regarding
fines.

12. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any Magistrate of the First Class specially empowered by the Provincial Government in this behalf to pass a sentence of fine exceeding one thousand rupees on any person convicted of contravening an order made under section 3. V of 1898.

Presumption
as to orders.

13. (1) No order made in exercise of any power conferred by or under this Act shall be called in question in any Court.

(2) Where an order purports to have been made and signed by an authority in exercise of any power conferred by or under this Act, a Court shall, within the meaning of Evidence Act, 1872, presume that such order was so made by that authority. 1 of 1872.

Burden of
proof in cer-
tain cases.

14. Where any person is prosecuted for contravening any order made under section 3 which prohibits him from doing an act or being in possession of a thing without lawful authority or without a permit, licence or other document, the burden of proving that he has such authority, permit, licence or other document, shall be on him.

Protection of
action taken
under Act.

15. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order made under section 3.

(2) No suit or other legal proceeding shall lie against the Government or any officer under it for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order made under section 3.

The East Pakistan Control of Essential Commodities Act, 1956. 521

of 1956.]

(Section 16.)

16. (1) The East Pakistan Control of Essential Com-
modities Ordinance, 1956, is hereby repealed. Repeal and
saving.

E. P. Ord.
X of 1956.

(2) Notwithstanding such repeal, any order made or deemed to be made under the East Pakistan Essential Commodities Ordinance, 1956 and in force immediately before the commencement of this Act shall, until such time as the Provincial Government or an officer authorised by the Provincial Government issues orders under this Act, continue in force and be deemed to be order made under corresponding provision of this Act; and all appointments made, licences or permits granted and directions issued under any such order and in force immediately before such commencement shall likewise continue in force and be deemed to be made, granted or issued in pursuance of this Act as if this Act had come into force on the date of commencement of the said Ordinance.

E. P. Ord.
X of 1956.

East Pakistan Act VI of 1956.

THE POLICE (EAST PAKISTAN AMENDMENT)
ACT, 1956.¹

[22nd September, 1956.]

An Act to amend the provisions of the Police Act, 1861.

Act V of 1861. WHEREAS it is expedient to amend the provisions of the Police Act, 1861;

It is hereby enacted as

1. (1) This Act may be called the Police (East Pakistan Amendment) Act, 1956. Short title and commencement.

(2) It shall be deemed to have come into force on the 29th day of May, 1956.

Act V of 1861. 2. For the words "Deputy Superintendent" in the last paragraph of section 1 of the Police Act, 1861, the words "Inspector of Police" shall be substituted. Amendment of section 1 of Act V of 1861.

3. The Police (East Pakistan Amendment) Ordinance, 1956, is hereby repealed. Repeal of E. P. Ord. XVI of 1956.

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 17th September, 1956, Pt. IVA, p. 930; for proceedings in the Assembly, see the proceedings of the meetings of the East Pakistan Legislative Assembly held on the 18th and 19th September, 1956.

East Pakistan Act X of 1956.

THE EAST PAKISTAN FOOD (SPECIAL COURTS)
ACT, 1956.¹

[13th November, 1956.]

An Act to provide for setting up of courts for speedy trial of offences in relation to foodstuffs.

WHEREAS it is expedient to provide for setting up of Courts for speedy trial of offences in relation to foodstuffs;

It is hereby enacted as follows:—

1. (1) This Act may be called the East Pakistan Food (Special Courts) Act, 1956. Short title, extent and commencement.

(2) It extends to the whole of East Pakistan.

(3) It shall come into force at once.

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

(a) “foodstuffs” and “notified order” shall have the meanings respectively assigned to them in ²[the East Pakistan Control of Essential Commodities Act, 1956].

(b) “Special Magistrate” means Special Magistrate appointed under the Act.

3. Notwithstanding anything contained in ²[the East Pakistan Control of Essential Commodities Act, 1956], or in any other law for the time being in force, contravention of any notified order in respect of foodstuffs made or Offences under Ordinance.

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 17th September, 1956, Pt. IVA, p. 927; for proceedings in the Assembly, see the proceedings of the meetings of the East Pakistan Legislative Assembly held on 18th and 19th September, 1956.

The Act was applied to the Chittagong Hill-Tracts, vide Notification No. 8552F. D., dated the 17th September, 1957 Published in the *Dacca Gazette, Extraordinary*, dated the 20th September, 1957 Pt. I, P. 1919.

²The words, comma and figures within square brackets were substituted for the words, comma and figures “the East Pakistan Control of Essential Commodities Ordinance, 1956” by the East Pakistan Food (Special Courts) (Amendment) Act, 1957 (E. P. Act VI of 1957). This substitution shall be deemed to have come into force with effect from the 13th November, 1956.

[E. P. Act X

(Sections 4—8.)

deemed to have been made under ¹[the East Pakistan Control of Essential Commodities Act, 1956], shall be tried and punished by Special Magistrates appointed under this Act and no other Court shall have any jurisdiction to take cognisance of any such offence. E. P. Act
I of 1956

Appointment of Special Magistrates. 4. The Provincial Government may appoint as many Special Magistrates as it may deem necessary to try and punish offences under this Act.

Cognisance of offences by Special Magistrates. 5. A Special Magistrate may take cognisance of any offence punishable under this Act, committed within the territorial limits of his jurisdiction:—

(a) upon receiving a complaint of facts which constitutes such offences;

(b) upon a report in writing of such facts made by any police officer;

(c) upon information received from any person other than a police officer or upon his own knowledge or suspicion that such offence has been committed.

Penalties. 6. If any person commits an offence punishable under this Act, he shall be punishable with an imprisonment for a term which may extend to three years or with fine or with any one or both of them and the Court of Special Magistrate trying such offence may direct that any foodstuffs in respect of which the said Court is satisfied that a notified order has been contravened shall be forfeited to the Provincial Government.

Procedure for trials. 7. (1) A Special Magistrate may pass any sentence authorised by this Act.

(2) A Special Magistrate trying an offence under this Act shall have power to try such offences summarily and in trying such offences such Magistrate shall follow the procedure laid down in the Code of Criminal Procedure, 1898, for summary trials: Act V
1898.

Provided that such Magistrate shall not be required to record more than a memorandum of the evidence.

Inconsistency with other laws. 8. The provisions of the Code of Criminal Procedure, 1898, in so far as they are applicable and in so far as they are not inconsistent with the provisions of this Act, shall apply to all matters connected with, arising from or consequent upon a trial by a Special Magistrate appointed under this Act. Act V
1898.

¹See foot-note 2 on page 525, ante.

of 1956.]

(Section 9.)

E. P. Ord. 9. (1) The East Pakistan Food (Special Courts) Ordinance, 1956, is hereby repealed. Repeal and saving.

(2) Notwithstanding such repeal, any order passed or appointment made or notification issued, and in force immediately before the commencement of this Act, shall continue in force and be deemed to be an order passed, appointment made or notification issued under the corresponding provision of this Act as if this Act had come into force on the 12th August, 1956.

East Pakistan Act XVI of 1956.

THE ASSEMBLY SECRETARIAT (EAST PAKISTAN) ACT, 1956

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East Pakistan Act XVI of 1956.

**THE ASSEMBLY SECRETARIAT (EAST PAKISTAN
ACT, 1956.¹**

[8th December, 1956.]

An Act to establish the Secretariat of the Provincial Assembly (East Pakistan) and to regulate the recruitment and conditions of services of persons serving in the Secretariat staff of the Assembly.

WHEREAS it is expedient to establish the Secretariat of the Provincial Assembly, East Pakistan;

AND WHEREAS it is expedient to make provisions for regulating the recruitment and conditions of service of persons serving in the Secretariat staff of the Assembly;

It is hereby enacted as follows:—

1. (1) This Act may be called the Assembly Secretariat (East Pakistan) Act, 1956. Short title and commencement.

(2) It shall come into force at once.

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

(a) "Assembly" means the Provincial Assembly of East Pakistan.

(b) "Speaker" means the Speaker of the East Pakistan Assembly.

(c) "Deputy Speaker" means the Deputy Speaker of the East Pakistan Assembly.

(d) "Constitution" means the Constitution of the Islamic Republic of Pakistan.

(e) "Secretary" means the Secretary to the Assembly and includes any person ²[who for the time

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 21st September, 1956, Pt. IVA, p. 975; for proceedings in the Assembly, see the proceedings of the meetings of the East Pakistan Legislative Assembly held on 20th and 22nd September, 1956; for report of the Select Committee, see the *Dacca Gazette, Extraordinary*, dated the 1st October, 1956, Pt. IVA, pp. 1043-1065.

²The words within square brackets were substituted for the words "for the time being performing the duties of the Secretary" by the Assembly Secretariat (East Pakistan) (Sixth Amendment) Ordinance, 1958 (E. P. Ord. No. LVIII of 1958), section 3.

(Section 3.)

being performs the duties assigned to the Secretary under the Act or under any other law for the time being in force].

1* * * *

1* * * *

- (h) "Assistant Secretary" means the Assistant Secretary to the Assembly and includes any person for the time being performing the duties of the Assistant Secretary.
- (i) "Leader of the House" means the Chief Minister.
- (j) "Leader of the Opposition" means the Leader of the single largest party in the opposition.
- (k) "Secretariat" means the Secretariat of the Assembly.
- (l) "Provincial Government" means the Government of East Pakistan.

Establishment of a Secretariat and its status.

3. (1) There shall be a Secretariat of the Provincial Assembly from the Constitution Day; and the East Bengal Legislative Assembly Department shall be known as the East Pakistan Assembly Secretariat from that date.

(2) The Secretariat shall include all the officers and staff of the East Bengal Legislative Assembly Department and shall have such additional officers and staff as may be necessary for recruitment from time to time.

(3) The Secretariat shall be a self-contained, ^{2*} and autonomous body within the frame-work of the Constitution

3* * * *

⁴[(4) It shall function in the same manner as any department of the Provincial Government.]

(5) The Superintendent, East Pakistan Government Press, shall cause to be inserted in the "Dacca Gazette" (published by Authority), in Part I, under the caption "Orders and Notifications by the Governor of East Pakistan, the High Court,

¹Clauses (f) and (g) were omitted by the Assembly Secretariat (East Pakistan) (Sixth Amendment) Ordinance, 1958 (E. P. Ord. No. LVIII of 1958), section 3.

²The word "independent" was omitted by section 4, *ibid.*

³The words "and shall not be under the control of the Executive Department of the Provincial Government and there shall not be any administrative department over the head of the Secretariat" were omitted by section 4, *ibid.*

⁴This sub-section was substituted for the original sub-section (4) *ibid.*

of 1956.]

(Section 4.)

Government Treasury, etc.", the words "East Pakistan Assembly" after the words "Governor of East Pakistan" in the said caption.

4. (1) Notwithstanding anything for the time being contained in other Rules, Acts, Regulations, etc., in force, communication from the Secretariat, if any, to any Secretariat Department of the Provincial Government in respect of any matter which is the concern of that Department shall be made direct with the Department concerned by means of official correspondence and not through transmission of files:

Method of communication with the Government Departments.

¹[Provided that there may be exchange of files between the Speaker and any Minister of the Provincial Government in relation to any matter of the Assembly.]

(2) The Secretariat shall send direct requisitions in regard to printing, binding and publication of matters in the "Dacca Gazette" and similar requisitions in connection with the needs and requirements of the Secretariat to the East Pakistan Government Press which shall comply with the same and no fresh order of any Department of the Secretariat of the Provincial Government shall be required for the compliance and execution of the same by the Superintendent, East Pakistan Government Press, Dacca:

²[Provided that the Secretariat shall send all requisitions for supply of necessary copies of the Provincial and Central Acts, Regulations and Ordinances to the East Pakistan Government Press through the Legislative Department of the Provincial Government.]

(3) The Secretariat shall communicate with the Home (Constitution and Elections) Department of the Provincial Government in regard to the programme of business to be brought forward by the Provincial Government in a session of the Assembly and in all other respects communication from the Secretariat shall be direct with the respective appropriate Department as in sub-section (1) of this section.

(4) Until rule 19 of the East Bengal Legislative Assembly (Members' Allowances) Rules, 1950, is amended, communications from the Secretariat in respect of claims of members of the Assembly as in rule 19 of the East Bengal Legislative Assembly (Members' Allowances) Rules, 1950, shall be made

¹This proviso was substituted for the original proviso to sub-section (1) of section 4 by section 5 of the Assembly Secretariat (East Pakistan) (Sixth Amendment) Ordinance, 1958 (E. P. Ord. No. LVIII of 1958).

²This proviso was added by the Assembly Secretariat (East Pakistan) (Fifth Amendment) Ordinance, 1958 (E. P. Ord. No. XLII of 1958), section 3.

(Sections 5-7.)

with the Home (Constitution and Elections) Department of the Provincial Government which Department shall communicate the decision of the Provincial Government to the Secretariat and the Secretariat shall issue necessary orders to the Audit Office for investigation of the claims.

Method of communication with the Governor's Secretariat.

5. The order of summoning the Assembly and that of proroguing the same by the Governor shall be communicated direct from the Governor's Secretariat to the Speaker who shall cause a Notification to be published in the "Dacca Gazette" by the Secretary to the Assembly as in rule 2 (1) of the East Bengal Legislative Assembly Procedure Rules, adapted under the provisions of the Constitution:

Provided that, when the Assembly is in session, the order of prorogation shall be announced by the Speaker in the House.

Supply of Government publications.

6. (1) All Secretariat Departments of the Provincial Government shall enlist the name of the Secretariat for the supply of 12 copies of their respective publications for use in the Secretariat in addition to the requirements for the use of the members of the Assembly, if any.

(2) The Legislative Department of the Provincial Government shall similarly enlist the name of the Secretariat for the supply of necessary copies of the Provincial and Central Acts, Regulations, Ordinances, etc., in the Distribution List maintained by the Legislative Department.

(3) All Secretariat Departments of the Provincial Government shall send circulars, letters, notifications, memoranda issued by them, and received by them from the Central Government, for general information, guidance and indicating administrative policy of the Government, Provincial and Central, direct to the Secretariat and not through any Department of the Provincial Government, for such action as the Secretariat considers fit and proper in keeping with the provisions of this Act.

Publication of Bill before introduction in the Assembly.

17. (1) When the Governor orders the publication of any Bill under the provisions of the rules regulating the procedure of the Assembly for the time being in force, the Legislative Department of the Provincial Government shall publish such Bill, together with the Statement of Objects and Reasons which accompanies it, in the *Official Gazette*.

(2) As soon as may be after a Bill is published under sub-section (1) of this section, the Legislative Department

¹Sections 7, 7A, 7B and 7C were substituted for the original section 7 by the Assembly Secretariat (East Pakistan) (Fifth Amendment) Ordinance, 1958 (E. P. Ord. No. XLII of 1958), section 4.

of 1956.]

(Sections 7A—9.)

of the Provincial Government will obtain from the East Pakistan Government Press such number of copies as may be required for departmental use as well as for supply to the members of the Assembly, and shall send to the Secretary such number of copies of the Bill as may be required for supply to the members of the Assembly.

7A. When a Bill has been introduced in the Assembly, the Secretariat shall, unless the Bill has already been published, publish it in the *Official Gazette*. Publication of Bill after introduction.

7B. When a Bill is assented to by the Governor or the President, as the case may be, the Legislative Department of the Provincial Government shall publish the notification issued by the Secretary to the Governor in the *Official Gazette*. Publication of Governor's Assent to Bills.

7C. When a Bill is assented to by the Governor or the President, as the case may be, the Secretary to the Governor shall send two authenticated copies of such Bill to the Legislative Department of the Provincial Government for publication as an Act of the Provincial Legislature in the same issue of the *Official Gazette* in which the assent thereto is proposed to be published under section 7B and for printing and distribution of octavo copies of the Act.] Publication of Bills as Act.

8. Subject to the proviso to Article 221 and Article 230 of the Constitution, the expenditure of the Secretariat shall be a charged item on the Provincial Consolidated Fund as provided in the Constitution. Expenditure of the Secretariat.

9.¹[(1) There shall be a Finance Committee consisting of the Speaker, the Minister of Finance and 9 members of the Assembly elected by the Assembly : Finance Committee and its proceedings and functions.

Provided that the Leader of the House may nominate nine members of the Assembly to be members of the Finance Committee and the members so nominated shall hold office till the Assembly elect members in their place under this sub-section and the Finance Committee so constituted shall exercise all powers and perform all duties imposed on it by this Act.

(1a) The expenditure in relation to day-to-day administration of the Secretariat may be sanctioned by the Secretary subject to the general supervision of the Speaker:

¹Sub-sections (1) and (1a) of section 9 with the provisos were substituted for the original sub-section (1) of section 9 and its proviso by the Assembly Secretariat (East Pakistan) (Sixth Amendment) Ordinance, 1958 (E. P. Ord. No. LVIII of 1958), section 6.

(Sections 10—12.)

Provided that the sanction of the Finance Committee shall be necessary when such an expenditure is to be made by reappropriation:

Provided further that during the continuance in operation of a Proclamation under Article 193 of the Constitution, all the powers vested in or exercisable by the Finance Committee shall vest in and be exercisable by the Provincial Government.]

(2) The Finance Committee may make rules regulating its own procedure.

1* * *

Composition of the Secretariat staff (both Gazetted and non-Gazetted).

²[10. The Secretariat shall consist of the Secretary to the Assembly, First Assistant Secretary and the Second Assistant Secretary to the Assembly, and Registrar who shall be Gazetted Officers and such other Gazetted Officer not above the rank of First Assistant Secretary, Assistants and Members of the Lower Subordinate Service as may be sanctioned by the Finance Committee from time to time on the recommendation of the Service Committee.]

Position of the staff of the defunct East Bengal Legislative Assembly Department (both Gazetted and non-Gazetted).

11. Any person holding immediately prior to the 23rd March, 1956 a post to which he was duly appointed in the East Bengal Legislative Assembly Department shall be deemed to have been duly appointed in accordance with this Act to a corresponding post in the Secretariat.

Conduct of administration of the Secretariat.

12. (1) All executive actions in relation to the administration of the Secretariat including appointment, leave, retirement, pension, dismissal and resignation of the Gazetted Officers of the Secretariat, shall be published by order of the Assembly in the "*Dacca Gazette*", ³* *.

4* * *

¹Sub-sections (3) and (4) of section 9 and sub-section (5) with Explanation were omitted by the Assembly Secretariat (East Pakistan) (Sixth Amendment) Ordinance, 1958 (E. P. Ord. No. LVIII of 1958), section 6.

²This section was substituted for the original section 10, by section 7, *ibid.*

³The words "in cases where it is necessary" were omitted by section 8, *ibid.*

⁴Sub-section (2) of section 12 was omitted, *ibid.*

(Sections 13—15.)

¹[13. The number and character of posts, and the remuneration of persons holding such posts in the Secretariat shall be determined by the Finance Committee in consultation with the Service Committee.]

Remuneration of the staff (Gazetted and non-Gazetted).

²[14. (1) All appointments to Gazetted posts in the Secretariat either by promotion from non-Gazetted post to Gazetted post or from one Gazetted post to another Gazetted post or by selection for any period exceeding 12 months shall be made by the Speaker on the recommendation of the Provincial Public Service Commission, but temporary or officiating appointment to any Gazetted post for a period not exceeding 12 months may be made by the Speaker on the recommendation of the Service Committee and with the concurrence of the Finance Committee.

Method of recruitment in the Gazetted and non-Gazetted posts in the Secretariat.

(2) All appointments to non-Gazetted posts except appointments of Members of the Lower Subordinate Service may be made by the Speaker on the recommendation of the Service Committee.

(3) All orders of confirmation of persons serving in the Secretariat except confirmation of Members of the Lower Subordinate Service shall be made by the Speaker in consultation with the Service Committee.]

³[15. The Service Committee shall, with the concurrence of the Finance Committee in respect of non-Gazetted appointments, and with the concurrence of the Finance Committee and Provincial Public Service Commission, in respect of Gazetted appointments, frame rules regulating the recruitment and conditions of service of persons employed in connection with the affairs of the Secretariat and until rules are so framed, the rules regulating recruitment and conditions of service of persons appointed to the Secretariat staff of the East Pakistan Legislative Assembly which were in force immediately before the 3rd day of August, 1956, shall, subject to such modifications and adaptations as may be made by the Governor, continue to be in force and shall always be deemed to have been in force.]

Recruitment in the Gazetted and non-Gazetted posts.

¹This section was substituted for the original section 13 by section 9 of the Assembly Secretariat (East Pakistan) (Sixth Amendment) Ordinance, 1958 (E. P. Ord. No. LVIII of 1958).

²This section was substituted for the original section 14 by section 10, *ibid.*

³This section was substituted for the original section 15 by section 11, *ibid.*

(Sections 16—19.)

Recruitment
in the posts
in the lower
subordinate
service.

16. ¹ * * * it shall be competent for the Secretary to appoint members of the Lower Subordinate Services of all categories in the Secretariat.

Control over
the non-Ga-
zatted staff.

²[17. The Secretary shall have administrative control over all Gazetted and non-Gazetted staff of the Secretariat and shall be responsible for its smooth functioning.]

Functions
and duties of
the Gazetted
Officers.

³[18. (1) Subject to such general direction as the Speaker may, from time to time, give in this behalf, the Secretary shall allot different duties and functions to different persons serving in the Secretariat.

(2) The Secretary or any other Gazetted Officer authorised by him in this behalf shall be the Drawing, Disbursing and Controlling Officer.

(3) The Secretary or any other Gazetted Officer authorised by him in this behalf shall be the Controlling Officer for the purpose of countersigning Travelling Allowance Bills of the members of the Assembly, officers and staff of the Secretariat.]

Service Com-
mittee.

19. ⁴[(1) There shall be a Committee for the Secretariat to be known as the Assembly Service Committee consisting of the Speaker, the Leader of the House, the Finance Minister, the Leader of the Opposition and 5 members of the Assembly to be elected by the Assembly. The Speaker shall be the Chairman of the Committee but when the office of the Speaker is vacant, or the Speaker, for any reason, is unable to attend any meeting of the Committee, the Committee shall elect one of its members to preside over the meeting. Four members shall form a quorum. A decision in the Committee shall be taken by the majority, but the person presiding shall not vote except when there is equality of votes in which case he shall have the right of a casting vote. The Committee shall frame rules for regulating its own procedure. Secretary of the Assembly shall be *ex-officio* Secretary of the Assembly Service Committee:

¹The words "Subject to such general direction as the Speaker may give in this behalf" were omitted by section 12 of the Assembly Secretariat (East Pakistan) (Sixth Amendment) Ordinance, 1958 (E. P. Ord. No. LVIII of 1958).

²This section was substituted for the original section 17 by section 13, *ibid.*

³This section was substituted for the original section 18 by section 14, *ibid.*

⁴This sub-section with the provisos was substituted for the original sub-section (1) of section 19 by section 15, *ibid.*

of 1956.]

(Sections 21, 22.)

Provided that the Leader of the House may nominate five members of the Assembly to be members of the Assembly Service Committee and the members so nominated shall hold office till the Assembly elects members in their place under this section, and the Assembly Service Committee so constituted shall take all steps for re-organisation of the Secretariat and shall exercise all powers and perform all duties imposed on it by this Act:

Provided further that during the continuance in operation of a Proclamation under Article 193 of the Constitution all the powers vested in or exercisable by the Assembly Service Committee shall vest in and be exercisable by the Provincial Government.]

(2) The Secretary to the Assembly shall be the Secretary to the Service Committee and the venue of the meeting of the Service Committee shall ordinarily be the Speaker's Office Room in the Assembly House, Dacca, or such other place as the Speaker may decide.

1* * *

21. The Secretary may, for gross misconduct, dereliction of duty or for any other good and sufficient reasons,—

Penalties against non-Gazetted staff and remedies.

- (i) censure,
- (ii) withhold increment or promotion (including stoppage at an efficiency bar) of, or
- (iii) suspend, to facilitate the proper investigation of a case against the officer suspended,

any member of the superior subordinate services. He may also, for good and sufficient reasons, impose any of the above punishments including removal and dismissal on the member of the lower subordinate services:

Provided that an appeal shall lie in both the cases to the ¹[Assembly Service Committee] against every such order.

22. The Speaker may, for gross misconduct, dereliction of duty or for any other good and sufficient reasons,—

Penalties against members of the superior subordinate services and remedies.

- (i) remove,
- (ii) dismiss, or

¹Section 20 was omitted by section 16 of the Assembly Secretariat (East Pakistan) (Sixth Amendment) Ordinance, 1958 (E. P. Ord. LVIII of 1958).

²The words within square brackets were substituted for the word "Speaker" by section 17, *ibid*.

(Section 25.)

(iii) reduce to a lower post or time scale or to a lower stage in time scale,

any member of the superior subordinate services:

Provided that an appeal shall lie to the Service Committee 1* * *

²[Provided further that until rules have been framed by the Assembly Service Committee, the provisions of the Bengal Subordinate Services (Discipline and Appeal) Rules, 1936, subject to such adaptations as may be necessary, shall apply.]

3* * *

Annual
Budget
the
of
the
Secre-
tariat.

25. Subject to the provision of Article 101 of the Constitution, the expenditure of the Provincial Assembly, that is, the annual estimates of receipts and expenditure of the Assembly, shall be prepared by the Secretary in accordance with the ⁴[procedure] followed by other Secretariat Departments of the Provincial Government and submitted to the ⁵[Finance Committee for consideration and] to the Finance Department of the Provincial Government for inclusion in the Budget of the Provincial Government under Article 96 of the Constitution and for completion of the procedure of the provisions of Articles 98 and 99 of the Constitution 6* * *

* * *

¹The words "through the Speaker" were omitted by section 18 of the Assembly Secretariat (East Pakistan) (Sixth Amendment) Ordinance, 1958 (E. P. Ord. No. LVIII of 1958).

²This new proviso was added, *ibid.*

³Sections 23 and 24 were omitted by section 19, *ibid.*

⁴This word was substituted for the word "instructions" by section 20, *ibid.*

⁵The words within square brackets were substituted for the words "Speaker for approval before submission to the *Ad hoc* Finance Committee or the Finance Committee, as the case may be, for onward transmission", *ibid.*

⁶The words, commas and colon "after normal scrutiny in such manner as the Committee shall decide. No new proposals for the Secretariat which would involve expenditure from the revenues of the Province, that is, out of the Provincial Consolidated Fund, shall be included in the Secretariat annual receipts and expenditure prior to the formal approval and sanction of the Finance Committee or of the *Ad hoc* Finance Committee, as the case may be:", and the proviso were omitted, *ibid.*

The Assembly Secretariat (East Pakistan) Act, 1956. 541
of 1956.]

(Sections 26, 27.)

¹[26. (1) All posts purported to have been created in the Secretariat after the third day of August, 1956, in pursuance of the provisions of the East Pakistan Assembly Secretariat Rules, 1956, published under notification No. 4220, dated the 3rd August, 1956 of the Governor's Secretariat and all posts purported to have been created under any provision of this Act are hereby abolished and all appointments made thereto are declared to be null and void and shall have no force or effect:

Repeal and
saving.

Provided that all persons holding any office in the Secretariat immediately before the 3rd day of August, 1956, shall continue to hold such office on such terms and conditions as were applicable to them under rules in force immediately before that date and until their remunerations and other allowances are determined by the Assembly Service Committee, they should continue to draw the remunerations and other allowances as were admissible to them before the aforesaid date, but no recovery of the excess amount drawn by them shall be made.

(2) The provisions of the East Bengal Services Rules shall apply to a person holding any post in the Secretariat which has been abolished under sub-section (1) as these apply to a person selected for discharge on the abolition of a permanent post.]

27. All existing laws in force immediately before the 23rd March, 1956 and made from time to time by the Government which are not repugnant to the subject or context of the provisions in this Act which govern the conditions of service, financial procedure and other administrative procedure of the Secretariat of the Provincial Government shall govern the procedure in the Secretariat for all other matters not provided in the Act.

Procedure in
matters not
provided in
the Act.

2* * * * *

Explanation.—In this section, the expression “existing laws” shall have the same meaning as in the Constitution.

3* * * * *

¹This section was substituted for the original section 26 by the Assembly Secretariat (East Pakistan) (Sixth Amendment) ordinance 1958 (E. P. Ord. LVIII of 1958), section 21.

²The words, comma and full-stop “The Speaker after consultation with the Service Committee and the Finance Committee may discharge the duties and responsibilities of the Provincial Government and of the Finance Department, as the case may be,” appearing as second paragraph of section 27 were omitted by section 22, *ibid*.

³Section 28 was omitted by section 23, *ibid*.

[E. P. Act XVI of 1956.]

(Sections 29—31.)

Nomenclature of the Building where the Secretariat is located.

29. The building known as the "Legislative Building" prior to the Constitution Day, shall be known as the "Assembly House" where the East Pakistan Assembly Secretariat is located.

Vacancy in the office of the Speaker.

30. In the case of a vacancy in the office of the Speaker or when the Speaker, for any reason, is unable to perform his duties, the Deputy Speaker, shall, until the election of the Speaker, perform all the duties and functions assigned to the Speaker under this Act.]

Procedure for replying questions relating to the Secretariat.

31. All questions in the Assembly relating to the matters affecting the Secretariat shall be answered by the Deputy Speaker.

2*	*	*	*	*
3*	*	*	*	*
4*	*	*	*	*

¹This section was substituted for the original section 30 by the Assembly Secretariat (East Pakistan) (Sixth Amendment) Ordinance, 1958 (E. P. Ord. LVIII of 1958), section 24.

²Section 32 was omitted by section 25, *ibid*.

³The First Schedule was omitted by the Assembly Secretariat (East Pakistan) (Fifth Amendment) Ordinance, 1958 (E. P. Ord. XLII of 1958), section 5.

⁴The Second Schedule, the Third Schedule, the Fourth Schedule, the Fifth Schedule and the Sixth Schedule were omitted by the Assembly Secretariat (East Pakistan) (Sixth Amendment) Ordinance, 1958 (E. P. Ord. LVIII of 1958), section 26.

East Pakistan Act XVIII of 1956.

THE LAW OF EVIDENCE AMENDMENT ACT, 1956.¹

[27th December, 1956.]

An Act to supplement the Law of Evidence.

WHEREAS doubts exist as to the admissibility of the certified copies of the copies of common records;

AND WHEREAS it is necessary to remove such doubts ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Law of Evidence Amendment Act, 1956.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of East Pakistan.

(3) It shall be deemed to have come into force on the 15th day of August, 1947.

(4) Notwithstanding anything contained in the Evidence Act, 1872, copies of common records of the divided districts of Bengal and Assam in the custody of a public officer, the originals whereof are either in West Bengal or Assam, shall be deemed to be public document within the meaning of clause (1) of section 74 of the Evidence Act, 1872 and other provisions of the said Act shall apply accordingly.

Copies of
common
records to be
public docu-
ments.

Explanation.—‘Common records’ mean and include documents of public nature in the custody of a public officer immediately before the 15th day of August, 1947, relating to a district or part of a district, which has fallen partly in Pakistan and partly in India as a result of the award of the Boundary Commission appointed under section 3 of the Indian Independence Act, 1947.

and 11
so. VI
30.

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 20th December, 1955, Pt. IVA, p. 2068; for proceedings in the Assembly, see the proceedings of the meetings of the Provincial Assembly of East Pakistan held on 29th November and 2nd October, 1956.

The Act was extended to the Chittagong Hill-Tracts, vide Notification No. 2921-J., dated the 25th July, 1957, published in the *Dacca Gazette*, dated the 8th August, 1957, Pt. I, p. 596

East Pakistan Act VIII of 1957.

**THE EAST PAKISTAN ANIMALS SLAUGHTER
(RESTRICTION) AND MEAT CONTROL ACT, 1957.¹**

[23rd April, 1957.]

An Act to provide for restriction on the slaughter of certain animals and for control of consumption of meat thereof.

WHEREAS it is necessary to provide for powers to restrict the slaughter of animals and to control the consumption of meat thereof;

It is hereby enacted as follows :—

1. (1) This Act may be called the East Pakistan Animals Slaughter (Restriction) and Meat Control Act, 1957.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of East Pakistan

(3) It shall come into force at once.

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

Definitions.

(a) "animal" means any bull, bullock, cow, ox, heifer, calf and buffalo;

"e" means the dea . . .

546 *The East Pakistan Animals Slaughter (Restriction)
and Meat Control Act, 1957.*

[E. P. Act VIII

(Sections 3—5.)

- (e) "prohibited day" means a day on which the slaughter of animal and the sale of meat thereof is prohibited by the Provincial Government by notification in the Official Gazette ; and
- (f) "slaughter-house" means any place used for the slaughter of any animal for the purpose of selling the flesh thereof as meat ¹[or otherwise], but excludes any slaughter-house belonging to or maintained by the Pakistan State Forces.

No slaughter
of animal or
sale of flesh
or meat on
prohibited
day.

3. (1) No person shall, during the period of 24 hours commencing at sunset on the day immediately preceding the prohibited day, slaughter any animal at any slaughter-house or at any other place for the sale of its meat.

(2) No person shall on any prohibited day sell ²[or expose for sale] any meat at any market or other place.

Restriction
on supply
and sale in
the catering
establish-
ment.

4. No owner, Manager or person in charge of or having control of any catering establishment shall on a prohibited day sell or ³[expose for sale] or serve, supply or cause to be served, supplied or sold any food containing meat in such catering establishment.

Restrictions
on slaughter
of animals.

5. No person shall slaughter or cause or permit to be slaughtered or offer for slaughter in a slaughter-house—

of 1957.]

(Section 6.)

- (i) in the case of an animal falling under clause (a), to be unlikely to live or to be fit for any of the purposes enumerated in clauses (b) or (c) as the case may be ;
- (ii) in the case of an animal falling under clauses (b) or (c), to be unfit for the purposes respectively enumerated therein ; and
- (iii) in the case of an animal falling under clause (d), to be unfit to be allowed to remain , pregnant or produce milk :

Provided further that if any such certificate is proved to have been procured through fraud or collusion it will be treated as invalid and the officer giving such certificate shall be severely dealt with.

6. (1) Any Officer authorised by Provincial Government by notification in the Official Gazette in this behalf may— Power of authorised Officer.

- ¹[(a) at any time enter and inspect any place used or believed to be used for the slaughter of animals for the purpose of selling or consuming the meat thereof or any place where meat is sold or exposed for sale or where any food containing meat is served, supplied or sold if there is reason to believe that meat has been or is being served, supplied, sold or exposed for sale in such place in contravention of the provisions of this Act ;
- (b) seize any animal or the carcass thereof found in such place, or any meat, receptacle, covering in which such meat is found or any other article by means of which he has reason to believe that contravention of any provision of the Act has been or is being or is likely to be committed;]
- (c) require the owner, Manager or person in charge or control of any slaughter-house or of any catering establishment to furnish such information as may be necessary for the purpose of securing compliance with this Act.

(2) The Officer taking action under sub-section (1) of this section shall immediately report the matter ²[to the nearest Magistrate having jurisdiction to enquire into or

¹Clauses (a) and (b) were substituted for the original clauses (a) and (b) by section 6 of the East Pakistan Animals Slaughter (Restriction) and Meat Control (Amendment) Ordinance, 1958 (E. P. Ord. LXXX of 1958).

²The words within square brackets were inserted by section 6, *ibid*.

(Sections 7—10.)

try the case or] to the Officer-in-charge of the nearest police-station who on receiving such report shall have the same powers of investigation as he may exercise in a cognizable case, but shall not arrest without warrant :

Provided that the Officer-in-charge ¹[or any other officer exercising any power under this Act] shall have the power to dispose of any carcase by sale or otherwise as may appear to him to be most suitable if he is satisfied that the carcase is liable to speedy decay.

²[(3) The report of the officer-in-charge mentioned in sub-section (2), submitted to the Magistrate shall be deemed to be a report under clause (b) of sub-section (1) of section 190 of the Code of Criminal Procedure, 1898.] v of 1898.

Penalty. 7. If any person contravenes any provisions of this Act,—

(a) he shall on conviction by a competent Court be punishable with imprisonment of either description for a term which may extend to 6 months or with fine not exceeding Rs.200 or with both.

(b) without prejudice to the punishment referred to in clause (a), any Court trying the offence may order that any animal or the carcase of such animal in respect of which the Court is satisfied that the offence has been committed, shall be forfeited to the Provincial Government and disposed of by sale or otherwise as may be prescribed.

Deposit of sums. 8. All sums realised under sub-section (2) of section 6 or under section 7 shall be deposited in the Government Treasury in such manner as may be prescribed.

Exceptions. 9. (1) Nothing in this Act shall apply to animals slaughtered or to be slaughtered on the day of Id-uz-Zoha and Id-ul-Fitre and the two days succeeding each of those festivals.

(2) The Provincial Government may from time to time prescribe such other occasions in relation to which any or all of the provisions of this Act shall not apply.

Rules. 10. The Provincial Government may make rules to give effect to the provisions of this Act.

¹The words within square brackets were inserted by section 6 of the East Pakistan Animals Slaughter (Restriction) and Meat Control (Amendment) Ordinance, 1958 (E. P. Ord. LXXX of 1958).

²This sub-section was added, *ibid*.

The East Pakistan Animals Slaughter (Restriction) 549
and Meat Control Act, 1957.

of 1957.]

(Sections 11—13.)

Act XLV
of 1860.

11. Any person empowered to perform any function under this Act shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code. Public servant.

12. (1) No Civil or Criminal proceeding shall lie against any person for anything done or intended to be done in good faith under this Act. Indemnity.

(2) No proceeding shall lie against the Provincial Government for any action taken under this Act.

E.P. Ord.
II of
1957.

13. (1) The East Pakistan Animals Slaughter (Restriction) and Meat Control Ordinance, 1957, is hereby repealed. Repeal and saving.

(2) Any order passed or anything done or any action taken or any proceedings commenced or any appointment made under any provision of the said Ordinance shall continue in force and be deemed to have been passed, done, taken, commenced or made under the corresponding provision of this Act.

East Pakistan Act X of 1957.

THE EAST PAKISTAN FINANCE ACT, 1957.¹

[25th April, 1957.]

An Act to raise funds for augmentation of the revenues of the Province and for continuance in force of certain taxes for the purpose of meeting expenditure on rehabilitation of refugees.

WHEREAS it is expedient to raise funds for augmentation of the revenues of the Province and to continue in force certain taxes for the purpose of meeting expenditure on rehabilitation of refugees as hereinafter provided;

It is, therefore, enacted as follows :—

1. (1) This Act may be called the East Pakistan Finance Act, 1957. Short title and commencement.

(2) It shall be deemed to have come into force from the 1st day of April, 1957.

2. (1) There shall be levied and paid a tax on advertisement by cinema slides at the rate of 5 *per centum* of the amount charged on such advertisement. Levy and payment of tax on advertisement by cinema slides.

(2) The tax shall be collected by the owner or management of the cinema and paid to the Government.

(3) The Provincial Government may make rules regulating the procedure for collection and payment of the tax and any other matter incidental to its levy.

3. (1) There shall be levied and collected from the owner or management of any shop situated in any Municipal or Cantonment Area or in such other area or areas as may be notified in the *Official Gazette* a tax of Rs.3 *per annum*. Levy and realisation of tax from owners, etc., of shops in certain areas.

* * * * *

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 27th March, 1957, Pt. IVA, p. 468; for proceedings in the Assembly, see the proceedings of the meetings of the East Pakistan Legislative Assembly held on the 28th and 31st March, 1957.

²Notwithstanding anything contained in sub-section (1) of section 3, the tax payable under that sub-section for the period from the 1st April to 30th June, 1959, shall be twelve annas, *vide* the Financial Year (Transitional Provisions) Ordinance, 1959 (E. P. Ord. No. XLII of 1959), section 5, which shall be deemed to have come into force on the 1st day of April, 1959.

³The proviso to sub-section (1) of section 3 was omitted by the East Pakistan Finance (Supplementary) Act, 1958 (E. P. Act No. XII of 1958), section 6.

[E. P. Act X

(Sections 4, 5.)

Explanation.—‘Shop’ means any premises not being premises intended to be in the nature of a temporary structure, where the trade or business of selling goods by retail or wholesale is carried on by the owner or occupier, or where services are rendered by the owner or occupier to the customers, and includes offices, show-rooms, store-rooms, godowns or ware-houses, wherever situated, used in connection with the said trade or business.

(2) The Provincial Government may make rules regulating the procedure for collection and payment of the tax and any other matter incidental to its levy.

Amendment
of Bengal
Agricultural
Income-Tax
Act, 1944.

4. The Bengal Agricultural Income-Tax Act, 1944, shall be amended in the following manner, namely :— Ben. Act IV of 1944.

Amendment
of section 2
of Ben. Act
IV of 1944.

“(a) In section 2, after clause (7), the following new clause shall be added:—

“(7A) “Hindu undivided family” means a Hindu undivided family governed by the *Mitakshara* Law.”

Amendment
of Schedule
to Ben.
Act IV of
1944.

(b) In the First Schedule, in clause (ii) of the proviso, for the words “one hundred”, the word “ninety” shall be substituted.

(c) In the First Schedule, in clauses (i) and (iii) of the proviso, for the word and figures “Rs.2,500”, the word and figures “Rs.3,000” be substituted.”

Registration
of hotels, res-
taurants, eat-
ing houses
and lodging-
houses.

5. (1) Every owner or management of a hotel, restaurant, eating house or lodging-house shall apply for registration to such officer, in such manner and within such time as may be prescribed by the Provincial Government by rules on payment of registration fee at the scales specified below :—

Rates of registration
fee for a year or
portion thereof.

Rs.

- | | |
|---|-------|
| (i) First Class hotel or restaurant or eating-house or lodging-house. | 1,000 |
| (ii) Second Class hotel or restaurant or eating-house or lodging-house. | 500 |
| (iii) Third Class hotel or restaurant or eating-house or lodging house. | 200 |
| (iv) Fourth Class hotel or restaurant or eating-house or lodging-house. | 100 |
| (v) Fifth Class hotel or restaurant or eating-house or lodging-house. | 50 |

of 1957.]

(Section 6.)

(2) The provision of sub-section (1) shall not apply to hotels, restaurant, eating houses or lodging houses the monthly net income of which is Rs.500 or below.

Explanation.—Net income shall be determined by rules.

(3) Every registration under sub-section (1) shall remain valid for a year and shall be renewed every year within one month of the expiry of its validity.

(4) The Provincial Government may make rules for classification of the hotels, restaurants, eating houses and lodging houses and for regulating the procedure for collection and payment of the registration fee and any other matter incidental to its levy.

(5) If any owner or management of a hotel, restaurant, eating house or lodging house fails to apply within due time for registration of the hotel, restaurant, eating house or lodging-house, he shall be liable to pay one and one-eighth the rates specified in sub-section (1).

6. (1) There shall be charged, levied and paid to the Provincial Government a tax at the rate of *annas 2 on every standard maund of jute taken into such areas for consumption, use or sale therein and from such date as may be notified by the Provincial Government in the *Official Gazette*. Imposition of tax on jute.

(2) Every person taking or receiving within the area notified under sub-section (1) any quantity of jute on which the tax is payable, shall, whenever required by an officer duly authorised by the Provincial Government on this behalf and so far as may be necessary for ascertaining the amount of tax chargeable,—

- (a) permit such officer to inspect, examine, weigh and otherwise deal with the said quantity of jute, and
- (b) communicate to that officer such information and exhibit to him such bill, invoice and document as such officer may require.

Explanation.—‘Person’ includes jute mills and jute bailing presses, etc., but does not include a grower.

(3) The Provincial Government may make rules regulating the procedure for assessment, collection and payment of the tax and for any other matter incidental thereto and such rules may also provide for penalty which is to be imposed for breach of any of such rules.

*During the period from the 1st day of July, 1959 and the 30th day of June, 1960 (both days inclusive), for the word and figure “annas 2” the word and figure “annas 4” shall be deemed to have been substituted by section 9 of the East Pakistan Finance (No. II) Ordinance, 1959 (E. P. Ord. XLVI of 1959).

[E. P. Act X

(Section 7 and the First Schedule.)

Amendment
of the Bengal
Motor Vehi-
cles Tax Act,
1932 and the
Assam
Motor Vehi-
cles Taxation
Act, 1936.

7. During the period from the 1st day of April, 1957 and the 31st day of March, 1958 (both days inclusive), the Bengal Motor Vehicles Tax Act, 1932, and the Assam Motor Vehicles Taxation Act, 1936, shall have effect as if for the First Schedule thereto the following were substituted:—

Ben. Act I
of 1932.
Assam
Act IX of
1936.

“THE FIRST SCHEDULE.

Description of motor vehicles and rate of tax.

Rate of tax payable
for the year.

1. Bicycles and Tricycles.

Cycles (including motor-scooters and cycles with attachment for propelling the same by mechanical power) not exceeding eight hundred weight in weight unladen—

(a) Bicycles propelled by mechanical power—

- (i) not exceeding two hundred pounds in weight unladen. Thirty-three rupees twelve annas.
- (ii) exceeding two hundred pounds in weight unladen. Forty-five rupees.
- (iii) if used for drawing a trailer or sidecar, in addition to the tax payable under (i) and (ii). Eleven rupees four annas.

(b) Tricycles propelled by mechanical power— Sixty-seven rupees eight annas.**II.—Vehicles for carrying passengers not plying for hire.**

- (a) Vehicles not measuring more than forty square feet. One hundred and two rupees.
- (b) Vehicles measuring more than forty square feet but not measuring sixty square feet. One hundred and twenty rupees.
- (c) Vehicles measuring sixty square feet and more than sixty square feet. One hundred and sixty-nine rupees eight annas.

of 1957.]

(The First Schedule.)

Area to be measured by wheel
base $\times$ track.

Rate of tax payable for the year.

Vehicles fitted entirely
with pneumatic tyres.

Other vehicles.

III.—Vehicles for carrying passengers plying for hire.

- | | | |
|---|--|--------------------------------------|
| (a) Seating not more than eight persons. | Rupees one hundred and forty-nine and annas eight. | Rupees one hundred and eighty-seven. |
| (b) Seating more than eight persons, in addition to the tax payable under (a), for every additional person that can thus be seated up to thirty : | Four rupees eight annas. | Six rupees. |

Provided that in the case of (b) above, in addition to the tax leviable thereunder a sum of Rs.63 per annum shall be payable.

- | | | |
|--|---------------|-------------|
| (c) Seating more than thirty persons, in addition to the tax payable under (a) and (b), for every additional person that can thus be seated. | Three rupees. | Six rupees. |
|--|---------------|-------------|

IV.—Vehicles for transport of goods.

- | | | |
|--|---|--|
| (a) Not exceeding twelve hundred-weight in weight unladen. | One hundred and twenty-five rupees. | One hundred and sixty-two rupees eight annas. |
| (b) Exceeding twelve hundred-weight but not exceeding one ton in weight unladen. | Two hundred rupees. | Two hundred and seventy-five rupees. |
| (c) Exceeding one ton, but not exceeding two tons in weight unladen. | Two hundred and sixty-two rupees eight annas. | Three hundred and thirty-seven rupees eight annas. |
| (d) Exceeding two tons, but not exceeding three tons in weight unladen. | Three hundred rupees. | Three hundred and seventy-five rupees. |
| (e) Exceeding three tons, but not exceeding four tons in weight unladen. | Three hundred and seventy-five rupees. | Four hundred and fifty rupees. |

[E. P. Act X

(The First Schedule and-sections 9, 10.)

Area to be measured by wheel
base $\times$ track.

Rate of tax payable for the year.

Vehicles fitted entirely with pneumatic tyres.	Other vehicles.

- | | | |
|---|--------------------------------------|---------------------------------------|
| (f) Exceeding four tons, but not exceeding five tons in weight unladen. | Five hundred and twenty-five rupees. | Six hundred and twenty-five rupees. |
| (g) Exceeding five tons. | Six hundred and seventy-five rupees. | Eight hundred and twenty-five rupees. |
| (h) If used for drawing a trailer in addition to the tax payable under (a) to (g), for each trailer : | One hundred rupees. | One hundred rupees. |

Provided that, if one trailer is used with more than one vehicle, only one tax shall be chargeable under (h) in respect of such trailer for all such vehicles."

1* * * * *

Payment of
tax by legal
and Income-
tax practi-
tioners.

9. During the period from the 1st day of April, 1957 and the 31st day of March, 1958 (both days inclusive), there shall be levied and collected from the legal practitioners of not less than 5 years' standing and Income-tax practitioners, a tax of Rs.20.

Payment of
tax by
Clearing
Agents and
Contractors.

10. During the period from the 1st day of April, 1957 and the 31st day of March, 1958 (both days inclusive), there shall be levied and collected from Clearing Agents, licensed or approved as Custom House Agents, and contractors supplying goods, commodities and services to Government or local bodies and every person holding licence under the Imports and Exports (Control) Act, 1950, a tax of Rs. 50 :

XXXIX
of 1950.

Provided that if any such person as aforesaid is liable to pay a tax under the East Bengal Finance Act, 1950, the tax under this section shall be levied and collected from such person at the rate of Rs.20.

E. B. Act
XVI of
1950.

¹Section 8 was repealed by section 7(4) of E. P. Ord. No. LXV of 1958 which Ordinance was also repealed by section 8 of E. P. Act XII 1958.

1957.]

(Section 11.)

11. (1) During the period from the 1st day of April, 1957 and the 31st day of March, 1958 (both days inclusive), there shall be levied and collected a toll on steam-vessels and motor-vessels plying in inland waters at the rates specified hereunder :—

on vessels of a tonnage of—

less than 100 tons ..	*Rupees two hundred.
100 tons and less than 500 tons ..	*Rupees five hundred.
500 tons and less than 1,000 tons	Rupees one thousand.
1,000 tons and upwards ..	Rupees two thousand.

(2) The toll shall be payable by the owner or the charterer of the vessel.

(3) The Provincial Government may make rules regulating the procedure for the collection and payment of the toll and any other matter incidental to its levy.

*The words "Rupees two hundred" and "Rupees five hundred" against the entries "Less than 100 tons" and "100 tons and less than 500 tons" respectively were substituted by "Rupees four hundred and fifty" and "Rupees six hundred" respectively by E.P. Ord. No. LXV of 1958, section 6, and the same rates were continued by section 3 of E.P. Act. XI of 1958 for the period from the 1st April, 1958 to 31st March, 1959, and then again these rates were varied by section 3 of E.P. Ord. XXIX of 1959 as "One hundred and twelve rupees eight annas" and "One hundred and fifty rupees" respectively for the period from the 1st April, 1959 to the 30th June, 1959, and again the said rates were varied as "Rupees four hundred and fifty" and "Rupees six hundred" respectively by section 3 of E. P. Ord. XLVI of 1959 for the period from 1st July, 1959 to 30th June, 1960.

[E. P. Act X

(Section 12.)

(4) In this section, "steam-vessels" and "motor-vessels" mean every description of vessel propelled wholly or in part by the agency of steam or, as the case may be, oil.

12. (1) During the period from the 1st day of April 1957 and the 31st day of March, 1958 (both days inclusive), there shall be levied and collected on fares and freights charged for transport by steam-vessels and motor vessels plying in inland waters a toll according to scale specified below :—

Scale.

Part I—Fares (passengers)—	Amount of tax.
On a first class ticket ..	Rupee one.
On a second class ticket ..	Annas eight.
On an inter-class ticket ..	Annas four.
On a third class or deck ticket ..	Annas two:

Provided that no tax shall be levied where the fare does not exceed rupees three.

Part II—Freights (goods)—	Amount of tax.
Where the freight on any consignment does not exceed Rs.3.	Nil.
Where the freight on any consignment exceeds Rs.3 but does not exceed Rs. 10.	Annas two.
Where the freight on any consignment exceeds Rs.10 but does not exceed Rs.25.	Annas four.
Where the freight on any consignment exceeds Rs.25 but does not exceed Rs.50.	Annas eight.
Where the freight on any consignment exceeds Rs.50 but does not exceed Rs.75.	Rupee one.

of 1957.]

(Section 13.)

Part II—Freights (goods)— <i>Contd.</i>	Amount of tax.
Where the freight on any consignment exceeds Rs.75 but does not exceed Rs.100.	Rupees two.
Where the freight on any consignment exceeds Rs.100 but does not exceed Rs.150.	Rupees four.
Where the freight on any consignment exceeds Rs.150 but does not exceed Rs.225.	Rupees six.
Where the freight on any consignment exceeds Rs.225 but does not exceed Rs.300.	Rupees eight.
Where the freight on any consignment exceeds Rs. 300.	Rupees eight <i>plus</i> rupees two for every Rs.100 in excess of Rs.300 of freight.

(2) The toll shall be collected by the owner or the charterer of the vessel and paid to the Government.

(3) The Provincial Government may make rules regulating the procedure for the collection and payment of the toll and any other matter incidental to its levy.

(4) In this section, "steam-vessels" and "motor-vessels" have the same meaning as in section 11.

Toll on
freights
on goods
carried by
road.

13. (1) During the period from the 1st day of April, 1957 and the 31st day of March, 1958 (both days inclusive), there shall be levied and collected on freights charged for goods transported by motor vehicles by road a toll according to the scale specified below :—

Freights (goods).	Amount of tax.
Where the freight on any consignment does not exceed Rs .3.	Nil.
Where the freight on any consignment exceeds Rs.3 but does not exceed Rs. 10.	Anna one.
Where the freight on any consignment exceeds Rs.10 but does not exceed Rs. 25.	Annas two.
Where the freight on any consignment exceeds Rs.25 but does not exceed Rs. 50.	Annas four.

[E. P. Act X of 1957.]

(Sections 14—16.)

Freights (goods).	Amount of tax.
Where the freight on any consignment exceeds Rs.50 but does not exceed Rs.75.	Annas eight.
Where the freight on any consignment exceeds Rs.75 but does not exceed Rs. 100.	Rupee one.
Where the freight on any consignment exceeds Rs.100 but does not exceed Rs.150.	Rupees two.
Where the freight on any consignment exceeds Rs.150 but does not exceed Rs.225.	Rupees three.
Where the freight on any consignment exceeds Rs.225 but does not exceed Rs.300.	Rupees four.
Where the freight on any consignment exceeds Rs. 300.	Rupees four <i>plus</i> rupee one for every Rs.100 in excess of Rs.300 of freight.

(2) The toll shall be collected by the owner of the motor vehicle and paid to the Government.

(3) The Provincial Government may make rules regulating the procedure for the collection and payment of the toll and any other matter incidental to its levy.

Act II of 1899. 14. During the period from the 1st day of April, 1957 and the 31st day of March, 1958 (both days inclusive), Article 53 of Schedule I to the Stamp Act, 1899, shall have effect and shall be deemed to have effect, as if for the entry in the second column thereof the following entry were substituted:—

“Two annas”.

15. If the person on whom the tax is levied or who is responsible for the collection and payment of any tax or toll under this Act fails to pay the tax or toll as provided in this Act and the rules made thereunder, he shall be liable to a penalty not exceeding the amount of the tax or toll payable.

16. Any tax, toll or fee leviable under the provision of this Act or any penalty imposed thereunder shall be deemed to be public demand within the meaning of the Bengal Public Demands Recovery Act, 1913.

East Pakistan Act XI of 1957.

THE EAST PAKISTAN URBAN IMMOVABLE PROPERTY TAX ACT, 1957¹.

[27th April, 1957.]

An Act to make an addition to the revenues of East Pakistan and for that purpose to impose a tax on lands and buildings in urban areas.

WHEREAS it is necessary to make an addition to the revenues of East Pakistan and for that purpose to impose a tax on lands and buildings in urban areas ;

It is hereby enacted as follows:—

1. (1) This Act may be called the East Pakistan Urban Immovable Property Tax Act, 1957.

Short title,
extent and
commence-
ment.

n. Act
of
12. of
sam
t I of
13. as have been constituted municipalities under the provisions of the Bengal Municipal Act, 1932, or the Assam Municipal Act, 1923, and to such other areas in East Pakistan as may be notified in the *Official Gazette*, and shall be deemed to have come into force in those areas from the first day of April, 1957.

(3) The Provincial Government may, by notification in the *Official Gazette*, extend this Act to such other areas in East Pakistan as may hereafter be constituted municipalities under the provisions of any of the said Acts with effect from such dates as may be specified in such notification whereupon this Act shall apply to such areas from those dates.

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

Definitions

- (1) "holding" means land held under one title or agreement and surrounded by one set of boundaries together with buildings thereon ;
- (2) "prescribed" means prescribed by rules made under this Act ;
- (3) "vacant land" means open land upon which no building has been constructed ; and

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 26th March, 1957, Pt. IVA, p. 439 ; for proceedings in the Assembly, see the proceedings of the meetings of the East Pakistan Legislative Assembly held on the 28th March and 1st April, 1957.

(Sections 3—6.)

Levy of Urban Immovable Property Tax.

¹[(4) "year" means a financial year.]

3. Except as otherwise expressly provided in this Act, there shall be charged, levied and paid to the Provincial Government for each year a tax on lands and buildings constituting holdings, hereinafter referred to as the Urban Immovable Property Tax, at the rates specified in the Schedule to this Act.

Annual value of holding.

4. The annual value of a holding shall mean, in municipal areas, the annual value of the holding as determined under the provisions of the Bengal Municipal Act, 1932, or the Assam Municipal Act, 1923, as the case may be, and in areas notified under sub-section (2) of section 1, the annual letting value of the holding as may be determined in the prescribed manner.

Ben. XV of 1932. Assam Act I of 1923.

Explanation.—Annual value will be exclusive of Municipal Tax.

Revision or alteration of annual value of holding.

5. When the annual value of a holding is revised or altered in accordance with the provisions of the Bengal Municipal Act, 1932, or the Assam Municipal Act, 1923, or the annual value of the holding in respect of areas other than municipal areas is revised or altered under rules prescribed, the annual value of that holding shall be deemed to have been revised or altered under this Act accordingly, and the Urban Immovable Property Tax on such holding shall be imposed on the basis of the revised or altered annual value thereof.

Ben. Act XV of 1932. Assam Act I of 1923.

Exemptions.

6. The Urban Immovable Property Tax shall not be leviable in respect of the following:—

- (a) buildings and lands or portions thereof exclusively occupied for religious or charitable purposes;
- (b) buildings and lands used for accommodating an educational institution, a hospital, a nursing home, a maternity home or any other institution which has its object the promotion of public health ;
- (c) buildings and lands vesting in the Central Government or in the Provincial Government ;
- (d) buildings and lands vesting in, or belonging to, a municipality or a Local Board or a District Board and used solely for public purposes and not used or intended to be used for purposes of profit;

¹This Clause was substituted for the original Clause (4) by the East Pakistan Financial Year (Transitional Provisions) Ordinance, 1959 (E. P. Ord. No. XLII of 1959), section 4, which shall be deemed to have come into force on the 1st day of April, 1959.

(Sections 7—10.)

- (e) buildings and lands vesting in the Commissioners for the port of Chittagong and Chalna Anchorage and not used or intended to be used for purposes of profit ;
- (f) vacant lands ; and
- (g) holding, the annual value of which does not exceed ¹[Rs. 1,000] and which is occupied by the owner thereof for his residential purpose :

Provided that where any person has more than one holdings in any area to which this Act applies which are used by him for residential purpose, he shall get exemption under this clause in respect of one such holding only.

7. (1) The Urban Immovable Property Tax in respect of a holding shall be assessed and collected by the municipality within the limits of which it is situated, and it shall be assessed and collected in the same manner in which the municipality assesses and collects tax on holdings imposed under the Bengal Municipal Act, 1932, or the Assam Municipal Act, 1923.

Ben. Act
XV of
1932.
Assam
Act I of
1923.

Authorities competent to assess and collect Urban Immovable Property Tax and the manner of such collection.

(2) The Urban Immovable Property Tax in respect of a holding situated in such other areas where there is no municipality, shall be assessed and collected in the manner prescribed.

8. If any person, on being served with a notice of demand for the collection of the Urban Immovable Property Tax in the manner provided in section 7, wilfully fails to pay, within the period mentioned in the notice, the tax due, such tax and a sum, by way of penalty not exceeding one-eighth of the amount of the tax so unpaid, shall, subject to the general or special orders of the Provincial Government, be recoverable as a public demand.

Penalty for default in payment of the Urban Immovable Property Tax.

9. Notwithstanding anything contained in any other law for the time being in force and notwithstanding any rights arising out of any contract or otherwise howsoever, all sums due on account of the Urban Immovable Property Tax levied under section 3 or as a penalty imposed under section 8 for failure to pay such tax, in respect of any holding, shall, subject to the prior payment of the land revenue, if any, payable therefor, be a first charge upon the said holding and also upon the movable property, if any, found within or upon such holding and belonging to the person liable for such tax or penalty.

The Urban Immovable Property Tax to be a charge on premises on which it is leviable.

10. A municipality required to collect the Urban Immovable Property Tax under this Act shall be entitled, as its cost of collection, to such rebate as may be prescribed.

Rebate for cost of collection payable to municipality.

¹The letters and figures within square brackets were substituted for the letters and figures "Rs. 600" by the East Pakistan Finance (Supplementary) Act, 1958 (E.P. Act XII of 1958), section 3.

(Sections 11—14.)

Payment of
the Urban
Immovable
Property
Tax.

11. The Urban Immovable Property Tax shall be paid by the owner of the holding in respect of which it has been levied.

Manner of
realisation of
sums due, in
default of
payment of
collection of
by municipa-
lity.

12. (1) If the payment of amount collected by a municipality is not made within the period fixed, the Provincial Government may, notwithstanding any law relating to the funds vesting in such municipality or any other law for the time being in force, direct any bank in which any moneys of the municipality are deposited or the person in charge of the Government treasury or of any other place of security in which the moneys of the municipality are deposited, to pay such sum from such moneys as may be standing to the credit of the municipality in such bank or as may be in the hands of such person or as may from time to time be received from or on behalf of the municipality by way of deposit by such bank or person ; and such bank or person shall be bound to obey such order.

(2) Every payment made pursuant to an order under sub-section (1) shall be a sufficient discharge to such bank or person from all liability to the municipality in respect of any sum so paid by it or him out of the moneys of the municipality so deposited with such bank or person.

1* * *

Rules.

14. (1) The Provincial Government may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for the following matters:—

- (a) the amount of rebate to which a municipality would be entitled under section 10 for the cost of collection of the Urban Immovable Property Tax;
- (b) the manner in which the annual value shall be determined and the manner in which the annual value shall be altered or revised ;
- (c) the time and place at and the manner in which the amount of the Urban Immovable Property Tax collected shall be paid to the Provincial Government ; and
- (d) such other matters not inconsistent with the provisions of this Act as, in the opinion of the Provincial Government, are required to be prescribed by rules.

¹Section 13 was omitted by the East Pakistan Finance (Supplementary) Act, 1958 (E. P. Act XII of 1958), section 3.

THE SCHEDULE.

(*Vide* section 3.)

	Rate of tax.
(a) On the first Rs. 600 of the annual value.	Nil.
(b) On the next Rs. 2,500	.. Two <i>per centum</i> .
(c) On the next Rs. 2,500	.. Three <i>per centum</i> .
(d) On the balance of the total value:	Four <i>per centum</i> .

[Provided that for the period beginning from the 1st April, 1959 to 30th June, 1959, the tax shall be one-fourth of the tax payable on annual letting value.]

¹The proviso was added by the East Pakistan Financial Year (Transitional Provisions) Ordinance, 1959 (E. P. Ord. No. XLII of 1959), section 4, which shall be deemed to have come into force on the 1st day of April, 1959.

East Pakistan Act XII of 1957.

THE EAST PAKISTAN JUTE MARKETING CORPORATION ACT, 1957.¹

[7th May, 1957.]

An Act to establish East Pakistan Jute Marketing Corporation.

WHEREAS it is necessary to provide for the establishment of a Corporation to carry on jute trade with a view to stabilise jute prices for ensuring a fair price to the growers to improve their economic conditions;

It is hereby enacted as follows:—

1. (1) This Act may be called the East Pakistan Jute Marketing Corporation Act, 1957. Short title, extent and commencement.

(2) It extends to the whole of East Pakistan.

(3) It shall come into force on such date² as the Provincial Government may, by notification, in the *Official Gazette*, appoint.

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

(a) "Board" means the Board of Directors of the Corporation;

(b) "Corporation" means the East Pakistan Jute Marketing Corporation established under this Act: and

(c) "Prescribed" means prescribed by rules framed by the Provincial Government under this Act.

3. (1) As soon as may be after the commencement of this Act, the Provincial Government shall establish a Corporation to be called the "East Pakistan Jute Marketing Corporation". Establishment and incorporation of the Corporation.

(2) The Corporation shall be a body corporate by the name of "The East Pakistan Jute Marketing Corporation", with its Head Office at Narayanganj, East Pakistan, having perpetual succession and a common seal with power to acquire and hold property, both movable and immovable, and shall, by the said name, sue and be sued.

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 7th March, 1957, Pt. IVA, p. 249; for proceedings in the Assembly, see the proceedings of the meetings of the East Pakistan Legislative Assembly held on the 12th and 17th March, 1957.

²The Act came into force with effect from the 11th May, 1957 vide Notification No. 857-Jute dated the 11th May, 1957, published in the *Dacca Gazette, Extraordinary*, dated the 11th May, 1957.

[E. P. Act XII

(Sections 4, 5.)

(3) The Corporation may, from time to time, raise loans by issue of debentures at such rate of interest, and for such period, and upon such terms and conditions, as the Provincial Government may approve, any sum necessary for carrying out the purposes of this Act.

Functions of
the Corpora-
tion.

4. The functions of the Corporation will be—

- (i) to carry on jute trade with a view to stabilise prices of raw jute for ensuring a fair price to the growers;
- (ii) to assist the growth and development of Co-operative Societies among the jute growers throughout the Province by financial help;
- (iii) to establish regulated markets with the aid of Provincial Government, wherever possible;
- (iv) to establish standard grades by setting up model standards of its own; and
- (v) to purchase Jute grown in border belt when directed by the Provincial Government.

limits and
guarantee of
the share
money.

5. (1) ~~The authorised share capital of the Corporation~~ ^{shall be} eight crores of rupees, divided into eighty lakh fully paid-up shares of rupees ten each, of which half the number will be issued in the first instance and the remaining shares may be issued from time to time by the Corporation with the previous sanction of the Provincial Government.

(2) 51 *per cent.* of the shares to be issued may be purchased by the Provincial Government and the balance will be open to subscription by the public :

Provided that the maximum number of shares purchasable shall be limited to fifty for an individual and one hundred for a Co-operative Society or Company registered under the Companies Act, 1913.

VII
1913.

(3) The Corporation may increase the share capital, as it may think fit, with the previous approval of the Provincial Government.

of 1957.]

(Sections 6—8.)

(4) The Provincial Government shall guarantee the share money of the share-holders.

6. (1) The Corporation shall gradually set up purchasing centres all over the Province. Purchasing centres and purchase of raw jute.

(2) The Corporation may purchase, sell or store for sale such quantity of raw jute as it may deem proper:

Provided that at the end of the year the total quantity in stock, excluding the stock in transit, shall not exceed 2 lakh bales.

(3) The Corporation may effect their purchase, sale or storage either through their own employees or through agencies including Co-operative Societies or through both.

7. (1) The Corporation shall not purchase raw jute below such minimum price as may be fixed from time to time by the Provincial Government. No purchase below minimum price fixed by the Provincial Government.

(2) If the Corporation incurs any loss for buying jute at a price fixed by the Government which is higher than the prevailing market price, or if they are directed to open centres at places which are considered uneconomic from a business point of view, the amount of loss on those accounts alone will be made good by the Provincial Government.

8. (1) The general direction and administration of the Corporation and its affairs shall vest in the Board of Directors. Board of Directors and management of the Corporation.

(2) The Board of Directors shall consist of—

- (a) a Chairman appointed by the Provincial Government;
- (b) two Directors appointed by the Provincial Government; and
- (c) two Directors elected by the share-holders other than the Provincial Government in the manner prescribed:

Provided that at the time of the first constitution of the Board, the Provincial Government shall appoint the two Directors specified in the foregoing clause (c) and such appointed Directors shall be deemed to have been duly elected under that clause.

(3) Subject to the provision of this Act, the Chairman and the Directors of the Corporation shall hold office for a period of 3 years.

(4) The Board shall, subject to the directives of the Provincial Government, exercise all powers and do all acts which may be exercised or done by the Corporation.

(Sections 8A, 9.)

(5) In discharging its function the Corporation shall act on commercial considerations but with due regard to the general policy laid down by the Provincial Government and the objectives of the Corporation.

(6) If the Board fails to obey any directive issued by the Provincial Government in the matter of questions of policy of which the Provincial Government will be the sole judge, or if any of the Directors including the Chairman is found unsuitable, the Provincial Government may remove all or any of the Directors including the Chairman and appoint persons to take their place, and in the case of persons appointed to take place of elected Directors they shall hold office so long as the Directors whose place they fulfil would have been entitled to hold if they had not been removed.

Dissolution
of the Board
of Directors
and manage-
ment of the
Corporation
by commit-
tees.

¹[8A. (1) Notwithstanding anything contained elsewhere in this Act, if, at any time during the period of working of the Corporation, the Provincial Government is satisfied, after such enquiry as it may think fit into the management of the affairs of the Corporation and its activities, that the Board have failed to faithfully discharge the functions of the Corporation and mismanaged its affairs in such a way as to cause pecuniary loss to the Corporation, the Provincial Government may, dissolve such Board and instead of forming a new Board, have the affairs of the Corporation managed by one or more separate Committee or Committees, constituted of Members, both of officials and non-officials, not exceeding seven in each such Committee.

(2) The powers and duties vested in the Board under the provisions of this Act, on dissolution of such Board, shall, in the area of their respective jurisdiction, be exercised by the Committee or Committees constituted under this section.]

General
Manager and
the staff.

9. (1) The Board shall be assisted by a General Manager to be appointed by the Board in consultation with the Public Service Commission. He shall be a wholetime officer of the Corporation and perform such duties as the Board may assign to him.

(2) The pay and allowances and conditions of service of all members of the staff including the General Manager will be determined by the Board in consultation with the Public Service Commission.

¹This section was inserted by the East Pakistan Jute Marketing Corporation (Amendment) Ordinance, 1958 (E. P. Ord. No. LXXXI of 1958), section 2.

of 1957.]

(Sections 10—16.)

10. (1) No person shall be eligible for appointment as a Director or shall continue as such who— Disqualification.

(a) is, or at any time has been, convicted of an offence involving moral turpitude or adjudicated insolvent;

(b) is found a lunatic or becomes of unsound mind; or

(c) is a minor.

(2) No Director shall continue in office after absenting himself from three consecutive meetings of the Board without the leave of the Chairman, or, in the case of the Chairman, of the Provincial Government.

11. (1) The meeting of the Board shall be held at such times and such places as may be determined by the Chairman of the Board. Meetings of the Board and Directors.

(2) Three Directors shall form quorum of a meeting of the Board.

(3) In the absence of the Chairman, the Director authorised by the Chairman in writing shall preside and in default of such authorisation the Directors shall elect a Chairman to preside over a meeting.

(4) Each Director including the Chairman shall have one vote, and in case of equality of votes the Chairman shall have a second or casting vote.

12. The Directors including the Chairman shall receive such salary and allowances as may be prescribed by the Provincial Government. Salary of Directors, etc.

13. The Corporation may open an account in the National Bank of Pakistan or in any Scheduled Bank in Pakistan, or with prior approval of the Provincial Government, in any other Bank. Deposit accounts.

14. The Corporation may invest its funds in any securities of the Central or Provincial Government. Investment of funds.

15. The Corporation shall, with the approval of the Provincial Government, appoint its own Auditors who shall be persons holding a certificate under section 144 of the Companies Act, 1913. Appointment of Auditors.

16. A statement of its accounts audited by the Auditors referred to in the preceding section shall be furnished to the Provincial Government by the Corporation as soon as possible after the end of every financial year, but not later than 30th September following. Submission of statements of accounts.

(Sections 17—23.)

Submission
of Annual
Report.

17. The Corporation shall, as soon as possible after the end of every financial year, submit an annual report to the Provincial Government on the conduct of its affairs for that year and on its proposals for its next ensuing financial year.

Audited
statement of
accounts.

18. The Provincial Government shall lay before the Provincial Legislature, as soon as possible after the end of every financial year, not later than the following budget session, the audited statement of accounts referred to in section 16 and the annual report referred to in section 17 together with such observations as the Provincial Government may deem fit to make.

General
meetings.

19. (1) A general meeting of the share-holders of the Corporation shall be held at its Head Office annually within six months from the date on which the annual accounts of the Corporation are closed, and a general meeting may be convened by the Board at any other time.

(2) The share-holders present at the annual general meeting shall be entitled to discuss the annual accounts, the annual report of the Board on the working of the Corporation and the Auditor's report on the annual balance-sheets and accounts.

Indemnity
of officers.

20. Every Director, Auditor, officer or servant of the Corporation shall, before entering upon his duties, make a declaration of fidelity and secrecy in such form as may be laid down by the Board by Regulation.

Delegation
of powers.

21. The Provincial Government may, by notification in the *Official Gazette*, direct that the power to make orders under this Act shall, in relation to such matters and subject to such conditions, if any, be exercisable also by such officer or authority subordinate to the Provincial Government as may be specified in the direction.

Punishment
for contra-
vention of
orders.

22. If any person contravenes or attempts to contravene, or abets a contravention of, any order under this Act, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Persons to
be made
guilty for
contravention
in case of
a company
or other body
corporate.

23. If the person contravening an order made under this Act is a company or other body corporate, every Director, Manager, Secretary or other officer or Agent thereof shall, unless he proves that the contravention took place without his knowledge or that he exercised due diligence to prevent such contravention, be deemed to be guilty of such contravention.

of 1957.]

(Sections 24—30.)

XLV of 1860. 24. (1) No Court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by a person who is a public servant as defined in section 21 of the Pakistan Penal Code. Method of taking cognizance of any offence.

(2) The validity of any election of a Director shall not be called in question in any Civil Court.

25. The Provincial Government may make rules not inconsistent with this Act for the purpose of giving effect to the provisions of this Act, and where the rules made under this section are inconsistent with the Regulations made under section 28 the rules shall prevail. Power of the Provincial Government to make rules.

XLV of 1860. 26. The Chairman, every Director of the Corporation, the General Manager and every other employee of the Corporation shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code. Officers of the Corporation to be public servants.

27. No suit, prosecution or legal proceedings whatever shall lie against any person for anything in good faith done or intended to be done under this Act or any rules made under this Act. Indemnity.

28. (1) The Board may make Regulations not inconsistent with this Act or the rules made thereunder to provide for all matters for which provisions are necessary or expedient for the purpose of giving effect to the provisions of this Act. Power of the Board to make regulations.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for—

- (a) the meetings of the Board ;
- (b) the investment of the Corporation's funds ;
- (c) the sale, purchase or storage for sale of the Corporation's stocks ; and
- (d) the transfer or sale of shares to be subscribed by the public.

29. Out of the net profits, not more than 50 *per cent.* shall be distributed as rebate amongst the actual growers proportionate to the volume of their trade with the Corporation in a particular year to which the profits relate. The balance thus left shall be distributed in the manner as may be decided by the Board of Directors subject to the approval of the Government. Distribution of rebate.

30. All rules made under this Act shall be published in the *Official Gazette*, and shall come into force upon such publication. Publication of rules and regulations.

East Pakistan Act XIII of 1957.

THE EAST PAKISTAN COTTON GINNING AND PRESSING ACT, 1957¹.

[7th May, 1957.]

An Act to provide for powers to regulate charges for ginning and pressing of cotton, to requisition factories for storing of cotton and to enforce any agreement for the purchase and sale of cotton.

WHEREAS it is expedient to provide for powers to control the charges for ginning and pressing of cotton, requisition of factories for storage of cotton and other incidental matters ;

It is hereby enacted as follows :—

1. (1) This Act may be called the East Pakistan Cotton Ginning and Pressing Act, 1957. Short title, extent and commencement.
- (2) It extends to the whole of East Pakistan. "
- (3) This Act shall come into force at once.
2. In this Act,— Definitions.
 - (a) "Cotton" means unginned cotton (kapas) or ginned cotton (rui) or pressed and baled cotton, but does not include wool cotton or silk cotton ;
 - (b) "Factory" means a place wherein steam, water or other mechanical power or electric power is used and where—
 - (i) cotton is ginned or where cotton fibre is separated from cotton seed, or
 - (ii) cotton is pressed into bales ;
 - (c) "Factory Selection Contract" means a contract for the sale of cotton entered into in East Pakistan and providing for selection by the buyer at the factory and for delivery of the cotton selected in full pressed bales at Chittagong within the period and at the price specified in the contract ; and

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 12th March, 1957, Pt. IVA, p. 309 ; for proceedings in the Assembly, see the proceedings of the meetings of the East Pakistan Legislative Assembly held on the 14th March, 1957.

(Sections 3, 4.)

(d) "Occupier" means an occupier of a factory as owner, allottee, lessee or manager.

Ginning and pressing charges.

3. The Provincial Government may, by a notified order, regulate the charges to be made for the ginning and pressing of cotton and such order may regulate such charges uniformly in respect of all areas and factories or differentially in respect of particular areas or factories.

Requisition of factories, etc.

4. (1) The Provincial Government may, by a general or special order, requisition any factory or any place, whether open or enclosed, and use the same for ginning, pressing or storing cotton and for purposes incidental to the purposes of this Act, whether such cotton has been purchased by or on behalf of the Provincial Government or not.

(2) If any such factory or place is requisitioned under this section, there shall be paid compensation which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say—

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(b) where no such agreement can be reached, the Provincial Government shall appoint as arbitrator a person qualified for appointment as a Judge of a High Court;

(c) the Provincial Government may, in any case, nominate a person having expert knowledge as to the nature of the factory or place requisitioned, to assist the arbitrator, and where such nomination is made, the person to be compensated may also nominate an assessor for the said purpose;

(d) at the commencement of the proceedings before the arbitrator, the Provincial Government and the person to be compensated shall state what, in their respective opinions, is a fair amount of compensation;

(e) the arbitrator in making his award shall have regard to the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894, so far as the same can be made applicable to an acquisition of a temporary character.

Act I of 1894.

(3) The Provincial Government may prescribe the procedure to be followed in arbitration under sub-section (2).

of 1957.]

(Sections 5, 6.)

5. (1) Where cotton is offered for sale to the occupier of a ginning factory, he shall buy the same and pay a price for it not less than the minimum price fixed for such cotton under any law for the time being in force.

Proprietors, etc., of ginning factories to buy cotton offered for sale.

(2) If he fails to buy the cotton so offered to him or buys it at a price below the minimum price referred to in sub-section (1), then without prejudice to any punishment which may be imposed on him for having contravened a provision of this Act, the Provincial Government may order that the factory of which he is the occupier shall be confiscated to the Government and worked thereafter in such manner as it may see fit to direct.

(3) He shall be at liberty after having bought the said cotton to sell the same to any person or at his option to the Provincial Government in accordance with the terms of an agreement to be entered into between him and the Provincial Government.

(4) If after having entered into such agreement he contravenes or fails to comply with any provision of the same, he shall, without prejudice to any other action which the Government may take against him under this Act or under any other law for the time being in force, be deemed to have contravened a provision of this Act, and shall be punishable accordingly.

6. (1) Any person who contravenes or fails to comply with an order made or a direction given under this Act shall be punishable as if he had contravened a provision of this Act. Penalty.

(2) Any person who contravenes any provision of this Act shall be punishable with imprisonment for a term which may extend to 3 years or with fine or with both.

(3) Where any person as aforesaid is company or other body corporate, every member, director, manager, secretary or other officer and every agent and servant thereof shall be punishable as if he had contravened a provision of this Act.

(4) No person shall be prosecuted under this Act unless he has been given an opportunity by the Provincial Government to show cause within such time as the Provincial Government may specify why he should not be prosecuted, and if it is made to appear to the satisfaction of the Provincial Government at any time before the institution of the prosecution that he has used due diligence to enforce the observance of the provisions of this

(Sections 7—11.)

Act and that the offence has been committed without his knowledge or against his consent, the Provincial Government may forbear further proceedings against him :

Provided that nothing in this sub-section shall prevent the Provincial Government from proceeding against him further if it sees reason to do so, in which case he shall not be prosecuted unless he has been given a further opportunity as aforesaid.

Attempts
and abet-
ments.

7. Any person who attempts to contravene, or abets a contravention of, any provision of this Act or any order made or direction given thereunder, shall be deemed to have contravened that provision, order or direction.

False
statement.

8. If any person—

(i) when required by an order under this Act to make any statement or furnish any information makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false or does not believe to be true, or

(ii) makes any statement as aforesaid in any book, account, record, declaration, return or other document which he is required by any such order to maintain or furnish,

he shall be punishable with imprisonment for a term which may extend to 3 years or with fine or with both.

Cognizance
of offence.

9. No Court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by a person who is a public servant as defined in section 21 of the Pakistan Penal Code.

Act XLV
of 1860.

Power to
try offences
summarily.

10. Any Magistrate or Bench of Magistrate empowered for the time being to try in a summary way the offence specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898 may, on application in this behalf being made by the prosecution, try in accordance with the provision contained in sections 260 and 265 of the said Code any offence punishable under this Act.

Act V
of 1898.

Special
provision
regarding
fines.

11. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any Magistrate of the First Class specially empowered by the Provincial Government in this behalf to pass a sentence of fine exceeding one thousand rupees on any person convicted under this Act.

Act V
of 1898.

of 1957.]

(Sections 12, 13.)

12. (1) No order made in exercise of any power conferred by or under this Act shall be called in question in any Court. **Presumption as to orders.**

(2) Where an order purports to have been made and signed by an authority in exercise of any power conferred by or under this Act, a Court shall, within the meaning of the Evidence Act, 1872, presume that such order was so made by that authority. **et I f 1872.**

13. No suit, prosecution or other legal proceeding shall lie in respect of anything which is, in good faith, done or intended to be done in pursuance of any order made under this Act. **Protection of action taken under this Act.**

East Pakistan Act XIV of 1957

THE EAST PAKISTAN DEVELOPMENT OF INDUSTRIES (CONTROL AND REGULATION) ACT, 1957.¹

[21st May, 1957.]

An Act to make provision for certain matters connected with the development, regulation and operation of industries within the Province of East Pakistan.

WHEREAS it is expedient in the public interest to make provisions for certain matters connected with the development, regulation and operation of industries in the Province of East Pakistan to the extent hereinafter appearing ;

It is hereby enacted as follows:—

1. (1) This Act may be called the East Pakistan Development of Industries (Control and Regulation) Act, 1957. Short title,
extent and
commence-
ment.
- (2) It extends to the whole of East Pakistan.
- (3) It shall come into force at once.
2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.
 - (a) “factory” means, notwithstanding anything contained in any other law for the time being in force, any premises whereon 10 or more workers are working or were working on any day of the preceding twelve months and in any part of which manufacturing process is being carried on with the use of power or wherein 20 or more workers are working or were working on any day of the preceding twelve months and in any part of which a manufacturing process is being carried without power or ordinarily was carried ;
 - (b) “power” means electrical energy or any other form of energy which is mechanically transmitted and is not generated by human or animal agency ;
 - (c) “industry” means any industry engaged in the manufacture of specified articles or commodities

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 10th March, 1957, Pt. IVA, p. 274; for proceedings in the Assembly, see the proceedings of the meetings of the East Pakistan Legislative Assembly held on the 13th and 14th March, 1957.

(Section 2.)

and includes any industry ancillary to such industry or industries, but excludes—

- (i) making of iron or steel ;
 - (ii) ships ;
 - (iii) anti-biotics, sulpha-drugs and anti-T.B. vaccines ;
 - (iv) nuclear energy and mineral resources necessary for its production ;
 - (v) arms, firearms, ammunitions and explosives ;
 - (vi) fishing and fisheries outside territorial waters ;
 - (vii) industrial units owned wholly or partially by the Federation or by a Corporation set up by the Federation ; and
 - (viii) mineral oil and natural gas ;
- (d) “industrial undertaking” means an undertaking pertaining to industry carried on in any one or more factories by any person or authority ;
- (e) “manufacturing process” means any process—
- (i) for making, producing, altering, repairing or ornamenting, finishing, assembling, packing or otherwise treating any article or substance with a view to its use, sale, transport, delivery, exchange or disposal, or
 - (ii) for pumping oil, water or sewage, or
 - (iii) for generating, transforming, transmitting or distributing power ;
- (f) “owner of a factory” means a person, body or authority who have ultimate control over the affairs of a factory and in case the affairs of a factory are entrusted to a lessee, the manager or a managing agent, such lessee, manager or managing agent shall be deemed to be the owner of the factory ;
- (g) “machinery” includes all plants whereby power is generated, transformed, transmitted or applied ;
- (h) “prescribed” means prescribed by rules made under this Act ; and
- (i) “specified” means specified in the Schedule to this Act :

Provided that the Government may, by notification in the *Official Gazette*, add to or exclude from the Schedule

(Section 3.)

the name of any industry as it may deem fit and such addition or exclusion shall take effect as if it had been made by this Act ;

¹[(j) "Director of Industries" means the Director of Industries or the Director of Small and Cottage Industries, as the case may be, under the Commerce, Labour and Industries Department of the Government of East Pakistan ;

(k) "small industry" means and includes industrial establishments which are run mainly with hired labour without using any mechanical motive power for any operation or such establishments employing not more than twenty workmen and using mechanical motive power and in which total investment on land, buildings and machineries, in either case, does not exceed rupees one lakh in value ; and

(l) "cottage industry" means an industry which is carried on wholly or mainly by the members of a family either as whole-time or as part-time occupation.]

3. (1) No industrial undertaking shall be established, expanded or shall manufacture new articles relating to a specified industry or shall change its location pertaining to any of these specified industries after the commencement of this Act unless permission has been applied for by the owner in writing on a prescribed form and has been given in writing by the Provincial Government. Such permission may be given on such conditions and on payment of such fees as may be prescribed ²[and after such enquiry as the Provincial Government may think fit].

Establishment and expansion of industries.

(2) The Provincial Government may cancel or withdraw any such permission or modify the condition of such permission if, in its opinion, any of the conditions to such permission has been contravened.

(3) An industrial undertaking shall be deemed to be expanded within the meaning of sub-section (1) only when any addition to the equipment made at a particular time brings about a definite increase in its sanctioned capacity and not merely because of any replacement or renewal of, or addition to, the existing machinery or appliances within the limits prescribed.

¹These new clauses were added by the East Pakistan Development of Industries (Control and Regulation) (Second Amendment) Ordinance, 1958 (E. P. Ord. LXI of 1958), section 3.

²The words within square brackets were added by section 4, *ibid.*

(Sections 4—6.)

Registration certificate.

4. (1) All industrial undertakings existing on the date of commencement of this Act shall, ¹[by such date as may be notified by the Provincial Government, apply] for a registration certificate to the Director of Industries in the Department of Commerce, Labour and Industries, Government of East Pakistan, or to any officer or officers so authorised by the said Director by notification in the *Official Gazette* for any particular area or areas.

(2) Any industrial undertaking for establishment or expansion of which permission has been granted under sub-section (1) of section 3 shall apply for registration certificate before the commencement of its operation.

(3) The Director of Industries or the officer or officers authorised by him may grant the registration certificate on such conditions not inconsistent with any other law for the time being in force or with the conditions of the permission for the establishment or expansion of such industrial undertaking and on payment of such fees as may be prescribed from time to time.

(4) The Director of Industries may withdraw or cancel, or modify the conditions of, a registration certificate, if in his opinion any of the conditions thereof have been contravened.

Appeal.

²[4A. Any owner of a factory or industrial undertaking aggrieved by an order passed under sub-section (3) or (4) of section 4 by the Director of Industries or the Director of Small and Cottage Industries, as the case may be, may, within sixty days of the date on which such order was passed, appeal to the Provincial Government whose decision shall be final.]

Period of registration and its renewal.

5. A registration certificate granted under section 4 shall remain in force for one year ³* * * * and shall be renewable ⁴[annually for one year] on payment of such fee as may be prescribed.

Maintenance of records and power of inspection.

6. (1) The owner of an industrial undertaking shall maintain full and accurate statistics in such forms as may be prescribed and shall submit such returns in respect thereof to such authority as may be prescribed.

¹The words and comma within square brackets were substituted for the words and comma "within three months, apply" by the East Pakistan Development of Industries (Control and Regulation) (Second Amendment) Ordinance, 1958 (E. P. Ord. LXI of 1958), section 5.

²This section was added by section 6, *ibid*.

³The words "from the date of issue" were omitted by section 7, *ibid*.

⁴The words within square brackets were substituted for the words "for such further period", *ibid*.

(Sections 7, 8.)

(2) The owner of an industrial undertaking shall furnish to the Director of Industries or any officer authorised by the said Director in this behalf, any records, books of accounts, documents or other information relating to the inspection, running, maintenance, production or expansion of the said undertaking within such time and in such form as may be required by such officer and shall allow such officer access to all parts of the factory where a manufacturing process is being carried on, all records and books are maintained or any article connected with the manufacturing process or products is stored.

7. The Provincial Government may direct, where necessary, any industrial undertaking to train technicians and apprentices and to demonstrate and offer all such research facilities as may be determined, to such technicians and apprentices in their factory for a period and under terms as may be agreed to between such owner and the Provincial Government. Training of apprentices.

8. (1) The Provincial Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act. Power to make rules.

(2) Without prejudice to the generality of the power conferred by sub-section (1), such rules may provide for all or any of the following matters, namely :—

- (a) to prescribe the forms of applications under section 3 and the particulars to be furnished therein;
- (b) to prescribe the fee on payment of which registration certificate may be granted or renewed ;
- (c) to prescribe such conditions as may be necessary for the installation of new industrial undertakings. These conditions may relate to anything connected with the allotment, expansion or working of the undertaking or the production of the goods such as quality and quantity and a standard of raw materials used and goods manufactured, reservation of a percentage of total production for export ; and
- (d) terms of employment for all grades of employees and location and areas of industrial undertaking, etc.

(3) In making rules under this section, the Provincial Government may prescribe different rates of fees for factories classified according to the number of workers employed in them and the nature of articles produced by them.

(Sections 9—12 and the Schedule.)

Particulars of employees to be furnished to the Provincial Government.

9. The owner of an industrial undertaking shall furnish to the Provincial Government such detailed particulars as may be required relating to their employees.

Advisory Council and Committees.

10. The Provincial Government may, by notification in the *Official Gazette*, constitute Advisory Committees and a Council of Industries to advise generally on matters concerning the development and regulation of any specified industry or industries.

Contravention and penalty.

11. (1) Whoever contravenes any provision of this Act or any rule made thereunder or any condition on which registration certificate is granted shall, on conviction by a Court of law, be punishable with a fine which may extend to Rs. 1,000 and may, in addition, be punishable with a further fine which may extend to Rs. 100 for every day of the period during which such contravention continues.

(2) No prosecution shall lie under this Act except on a complaint in writing by an officer or any of the officers duly authorised by the Provincial Government in this behalf.

Indemnity.

12. No suit, prosecution or other legal proceeding shall lie against any public servant for anything done or intended to be done in good faith under this Act.

THE SCHEDULE.

[*Vide*, section 2(i):]

List of industries engaged in the prospecting, processing, blending, assembling, and/or manufacturing of the following :—

I. Food—

- (a) *Meat*.—Preserved and processed meat all sorts.
- (b) *Diary products*.—Diary products all sorts.
- (c) *Canned and preserved fruits and vegetables*.—Canned and preserved and processed fruits and vegetables all sorts.
- (d) *Fish*.—Canned and preserved and processed fish all sorts.
- (e) *Processed food*.—Grains all sorts.
- (f) *Bakery products*.—Bakery products all sorts.

(*The Schedule.*)

- (g) *Sugar*.—Cane sugar, beet sugar, date and palm sugar all sorts, raw and refined.
- (h) *Miscellaneous food preparations*.—Edible oils and fats all sorts, raw or processed, natural or synthetic.
- (i) *Tea*.—Tea including blended tea and packed tea.
- (j) *Kernels*.—Kernels all sorts including ground-nut and cocoanut kernels.
- (k) *Other food preparations*.—Miscellaneous food preparations all sorts including condiment powder.
- (l) *Common salt*.—Common salt.
- (m) *Starch*.—Starch all sorts.

II. Drinks and beverages—

- (a) Non-alcoholic soft drinks including squashes, syrups, cordials and carbonated mineral waters.
- (b) Alcoholic beverages all sorts including brewery products.

III. Tobacco—

- (a) Cigarettes.
- (b) Biddies, cigars and cheroots.
- (c) Zarda, snuff, pipe-tobacco, etc.

IV. Textiles—

- (a) Cotton yarn and fabrics.
- (b) Woollen yarn and fabrics.
- (c) Jute products including gunny bags, canvas and twine.
- (d) Silk or mixed silk yarn and fabrics.
- (e) Rayon and other synthetic yarn and fabrics.
- (f) Carpets all types.
- (g) *Finished textiles*.—Bleached, dyed, printed, calendered and finished textiles all sorts.
- (h) *Other textiles*.—Elastic webbing, braids, pressed belts non-elastic woven and braided narrow fabrics such as laces, ribbons, tapes, etc.
- (i) *Knitting*.—Hosiery products all sorts.
- (j) *Rope and cordage*.—Rope, cable, twine, net and other related goods.

[E. P. Act XIV

(The Schedule.)

- (k) *Thread and thread-balls.*—Thread and thread-balls all sorts.
- (l) *Protective floor coverings.*—Floor coverings, art leather, oil cloth, etc.
- (m) *Ready-made textile goods.*—Ready-made textile goods all sorts including garments and wearing apparels.

V. Footwear and ready-made textile goods—

- (a) *Footwear.*—Footwear all sorts except made from rubber.
- (b) *Rubber footwear.*—Rubber footwear all sorts.

VI. Wood cork, cane and bamboo products—

- (a) *Plywood products.*—Plywood and manufactures thereof all sorts including tea chests.
- (b) *Wood and timber products.*—Wood and timber products other than furniture all sorts including beams, railings, doors, windows and other containers, etc.
- (c) *Cork products.*—Cork products all sorts including bottle cork and cork sheets.
- (d) *Cane and bamboo products.*—Cane and bamboo products all sorts.

VII. Furniture and fixture—

- (a) Wood furniture.
- (b) Metal furniture.
- (c) Fixture.

VIII. Pulp, paper and paper products—

- (a) Pulps of cellulose origin, all sorts, and products thereof, including paper, boards, etc.
- (b) Paper and board products all sorts including bags, boxes, etc.

IX. Leather and leather products—

- (a) Tanned leather all sorts.
- (b) Leather products all sorts.

X. Rubber products excepting footwear—

Rubber products all sorts, natural or synthetic, including tyres, tubes, beltings, tubings, surgical goods, mechanical accessories.

(The Schedule.)

XI. Chemicals—

- (a) Heavy and light chemicals all sorts including acids, alkalies, salts, intermediates, dyes, colours (organic and inorganic), fertilizers, DDT, etc.
- (b) Synthetic resins all sorts including plastic compounds, synthetic fibres and filaments, rayon, etc.
- (c) Inedible vegetable oils, animal oils and fats all sorts, natural or synthetic, raw or processed.
- (d) Protective coatings all sorts including paints, varnishes, lacquers, enamels, polishes for leather, wood or metal, etc.
- (e) Pharmaceuticals all sorts including natural and synthetic drugs, medicines, Ayurvedic and Homoeopathic preparations.
- (f) Toilet preparations all sorts including perfumes, cosmetics, colognes, etc.
- (g) Detergents all sorts including washing soaps, toilet soaps, synthetic cleaners, etc.
- (h) Disinfectants and insecticides all sorts.
- (i) Matches and miscellaneous chemical products not otherwise specified.

XII. Mineral products : Non-metallic—

- (a) Cement all sorts including white and coloured.
- (b) Clay and clay products all sorts including china clay, fire clay, bricks, fire-bricks, tiles, pipes, refractories, etc.
- (c) Glass and glass products all sorts including sheet glass, hollow-ware, laboratory glass-ware, apparatus, etc., glass bangles, mirrors, decorated and ornamental glass-ware.
- (d) Pottery all sorts including china-ware, porcelain-ware, earthen-ware, stone-ware, enamel-ware, etc.
- (e) Miscellaneous non-metallic mineral products all sorts, not otherwise specified, including concrete, gypsum and plaster products, asbestos products, abrasives, ground, pulverised, activated and treated earths, rocks, clays, etc.

XIII. Mineral products : Metallic—

- (a) Ferrous products all sorts including blooms, bars, re-rolling of sheets, plates, bars and rails, etc., castings, forgings.

(The Schedule.)

- (b) Non-ferrous metals and products thereof all sorts including ingots, billets, bars, sheets, plates, sections, tubes, pipes, castings, etc.

XIV. Metal products : Structural—

- (a) Structural all sorts.
- (b) Metal stampings, enamelled, electroplated and galvanised products of all kinds.
- (c) Utensils and vessels all sorts.
- (d) Heating equipments all sorts.
- (e) Plumbing equipments all sorts.
- (f) Lighting equipments and fixtures all sorts including hurricane lanterns, pressure lamps, etc.
- (g) Cutlery all sorts including scissors, razors, razor blades, knives, etc.
- (h) Hand tools all sorts including scythes, spades, files, spanners, etc.
- (i) Building and Furniture hardware all sorts including handles, knobs, hooks, hinges, wire nets, barbed wires, wire ropes, chains, anchors, etc.
- (j) Transport equipments, locks, weighing scales, harness, saddlery, etc.
- (k) Fabricated metal products all sorts including household, hotel, hospital equipments, drums, buckets, tincans, metal safes, vaults, bolts, nuts, screws, nails, etc.

XV. Machinery—

Machinery, mill works, tools and workshop equipments all sorts including prime movers.

XVI. Electrical equipments—

- (a) Motors, generators, transformers, control equipments all sorts.
- (b) Electrical measuring and recording instruments all sorts.
- (c) Electrical laboratory apparatus and appliances all sorts.
- (d) Industrial apparatus, furnaces, ovens, etc., all sorts.
- (e) Electric cables, wires, batteries, cells all sorts.

(The Schedule.)

- (f) Household electrical appliances and accessories all sorts including fans, heaters, ranges, bulbs, tubes, washing machines, irons, etc., all sorts.
- (g) Communication equipments all sorts including radio, television, telephone, etc.
- (h) Electric goods not otherwise specified.

XVII. Transport equipments—

- (a) Boats and launches all sorts excluding sea-going vessels.
- (b) Locomotives, tramway cars.
- (c) Mechanically propelled vehicles all sorts.
- (d) Bicycles, tricycles, etc., all sorts.

XVIII. Miscellaneous manufactures—

- (a) Professional instruments all sorts including surgical and medical.
- (b) General scientific instruments all sorts including measuring, controlling, recording, indicating meters.
- (c) Photographic instruments, apparatus, appliances all sorts including motion pictures, cameras, projectors, photostal X-ray apparatus.
- (d) Optical and ophthalmic instruments all sorts.
- (e) Watches, clocks all sorts.
- (f) Plastic moulded goods all sorts.
- (g) Jewellery all sorts.
- (h) Musical instruments all sorts including phonographs.
- (i) Sports goods all sorts.
- (j) Toys all sorts.
- (k) Ice including dry ice.
- (l) Stationery all sorts including pens, pencils, etc.
- (m) Novelties all sorts including cigarette lighters, vanity articles.
- (n) Glue, gelatine, adhesives, all sorts.

[E. P. Act XIV of 1957.]

(The Schedule.)

XIX. Industrial undertakings other than those engaged in the manufacture of consumer goods—

- (a) Autoservice stations, battery charging.
- (b) Bleaching, dyeing, printing, calendering, laundering.
- (c) Movie houses.
- (d) Cold storage.
- (e) Film studio.
- (f) Printing Press.
- (g) Saw mills.

East Pakistan Act XV of 1957**THE EAST PAKISTAN FILM DEVELOPMENT CORPORATION ACT, 1957****CONTENTS.**

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East Pakistan Act XV of 1957.

THE EAST PAKISTAN FILM DEVELOPMENT CORPORATION ACT, 1957.¹

[21st May, 1957.]

An Act to establish a Corporation for the purpose of promoting the development of film industry in East Pakistan.

Whereas it is expedient to establish a Corporation for the purpose of promoting the development of film industry in East Pakistan ;

It is hereby enacted as follows :—

1. (1) This Act may be called the East Pakistan Film Development Corporation Act, 1957. Short title, extent and commencement.

(2) It extends to the whole of East Pakistan.

(3) It shall come into force on such date² as the Provincial Government may, by notification in the *Official Gazette*, appoint.

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

(a) "Board" means the Board of Directors of the Corporation ;

(b) "Borrower" means any person or persons or body of persons, whether incorporated or not, to whom a loan is made by the Corporation under this Act and the successors and assignees of such person or persons ;

(c) "Corporation" means the Film Development Corporation established by this Act ;

(d) "Film industry" means an industry engaged in the production of motion pictures for commercial exhibition and includes the setting up and maintaining of studios for the production of films ;

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 22nd March, 1957, Pt. IVA, p. 434 ; for proceedings in the Assembly, see the proceedings of the meetings of the East Pakistan Legislative Assembly held on the 27th March and 3rd April, 1957.

²The Act came into force with effect from the 19th June, 1957 vide notification No. 1106 Ind., dated the 18th June, 1957, published in the *Dacca Gazette, Extraordinary*, dated the 19th June, 1957, Pt. I, p. 1383.

The Act was applied to the Chittagong Hill Tracts with effect the 16th July, 1959, vide Notification No. 2673-Ind., dated the 4th July, 1959, published in the *Dacca Gazette*, dated the 16th July, 1959, Part I, page 517.

(Sections 3—6.)

- (e) "Film" means celluloid film used for producing motion pictures for commercial exhibition ;
- (f) "Scheduled Bank" means a Bank for the time being included in the list of Banks maintained under sub-section (1) of section 37 of the State Bank of Pakistan Act, 1956 ; and
- (g) "State Bank" means the State Bank of Pakistan.

XXXIII
of 1956.

Establish-
ment and
incorpora-
tion of Cor-
poration.

3. (1) A Corporation to be called "The Film Development Corporation" shall be established as soon as may be after the commencement of this Act.

(2) The Corporation shall be a body corporate by the name of the Film Development Corporation, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire and hold property, both movable and immovable, and shall by the said name sue and be sued.

Share capital
and share-
holders.

4. (1) The authorised capital of the Corporation shall, in the first instance, be one crore of rupees, divided into ten lakh fully paid up shares of Rs.10 each. These shares may be issued and allotted by the Corporation from time to time with the previous sanction of the Provincial Government.

(2) The authorised capital may, with the previous approval of the Provincial Government, be increased from time to time by the Corporation.

(3) The Provincial Government shall be a shareholder of the Corporation and shall subscribe to and hold not less than fifty-one *per centum* of the shares issued by the Corporation at any time ; the remaining shares shall be reserved for public subscription.

Approved
securities.

5. The shares and debentures of the Corporation shall be deemed to be " approved securities" for the purposes of the Trusts Act, 1882.

II of 1882

Manage-
ment.

6. (1) The general direction and administration of the Corporation and its affairs shall vest in a Board of Directors, which, with the assistance of an Executive Committee and a Managing Director, may exercise all powers and do all acts and things, which may be exercised or done by the Corporation.

(2) The Board in discharging its functions shall act on commercial considerations and shall be guided on questions of policy by such directions as the Provincial Government, which shall be the sole judge whether a question is a question of policy, may direct from time to time.

of 1957.]

(Sections 7, 8.)

(3) If the Board fails to carry out any direction given as aforesaid, the Provincial Government may remove the Directors, including the Chairman with the exception of Directors elected under section 7(b) for reasons to be recorded in writing, and, notwithstanding anything in section 7, appoint persons in their place to be Directors temporarily until a fresh Board is constituted in accordance with the provisions of that section.

7. The Board of Directors shall consist of the following, Board of
namely :— Directors.

(a) four Directors to be appointed by the Provincial Government ; and

(b) not more than three Directors to be elected in the prescribed manner by the shareholders of the Corporation other than the Provincial Government at any time being determined in accordance with the following table :—

If the total number of shares subscribed to by the shareholders other than the Provincial Government is equal to or exceeds:	The number of elected Directors shall be :
--	--

16-1/3 per centum of the total number of shares issued at the time.	One.
---	------

32-2/3 per centum of the total number of shares issued at the time.	Two.
---	------

49 per centum of the total number of shares issued at the time.	Three.
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(c) The Managing Director to be appointed by the Provincial Government under section 9 :

Provided that when the Board is first constituted the Directors referred to in clause (b) shall be appointed by the Provincial Government in accordance with the table given in the said clause from amongst the shareholders and shall, for the purpose of this Act, be deemed to be elected Directors.

8. (1) A Director appointed by the Provincial Government shall hold office during the pleasure of the Provincial Government. Terms of
office of
Directors.

(2) An elected Director shall hold office for a period of three years, shall continue in office after the expiry of his term until his successor is elected, and shall be eligible for re-election.

(Sections 9, 10.)

(3) A casual vacancy in the office of the Director shall be filled by election or appointment, as the case may be, and the Director elected or appointed to fill the vacancy shall hold office for the unexpired period of the term of his predecessor :

Provided that it shall not be necessary to fill a casual vacancy occurring within three months of the end of the term in which it occurs.

(4) No act or proceeding of the Board shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the composition of, the Board.

**Managing
Director.**

9. The Managing Director shall be appointed by the Provincial Government and shall—

- (a) be an officer devoting his wholetime to the Corporation ;
- (b) perform such duties as the Board may by regulations assign to him ;
- (c) divest himself of any directorship in any other corporation, company or concern ;
- (d) hold office, unless removed earlier by the Provincial Government, for a term of three years and shall be eligible for re-appointment for a further term or terms :

Provided that any such further term may be for such period not exceeding three years as the Provincial Government may determine ; and

- (e) be entitled to receive such salary and allowances as the Provincial Government may determine.

**Constitution
and powers
of the Execu-
tive Com-
mittee.**

10. (1) The Executive Committee shall consist of three members, that is to say, the Managing Director (who shall be the Chairman of the Committee), one Director appointed by the Provincial Government from amongst the appointed Directors and one Director elected from amongst the elected Directors in the prescribed manner by the shareholders of the Corporation other than the Provincial Government :

Provided that—

- (a) if there is only one elected Director at any time, he shall be deemed to have been elected as a member ;

(Sections 11—14.)

(b) if there is no elected Director at any time, the membership reserved for elected Directors shall be filled, until such time as a Director is elected, by a Director appointed by the Provincial Government from amongst the appointed Directors.

(2) An elected member shall hold office for three years and shall be eligible for re-election, but shall cease to hold office when he ceases to be an elected Director.

(3) Subject to such general or special directions as may from time to time be given by the Board, the Executive Committee shall be competent to deal with any matter within the competence of the Board.

(4) The minutes of every meeting of the Executive Committee shall be laid before the Board at its next following meeting.

11. No person shall be or shall continue to be a Director who— Disqualification for the office of Director.

(a) is a salaried official of the Corporation other than the Managing Director, or

(b) is or at any time has been adjudicated insolvent, or

(c) is found to be lunatic or of unsound mind, or

(d) is or at any time has been convicted of an offence which in the opinion of the Provincial Government is an offence involving moral turpitude, or

(e) is a minor.

12. A person shall cease to be a Director if he absents from three consecutive meetings of the Board without leave of absence from the Chairman, or, in the case of the Chairman, from the Provincial Government. Directors absent from three consecutive meetings.

13. The Corporation may appoint or employ such persons, including advisers, as it considers necessary for the efficient performance of its functions. Appointment of officers and advisers.

14. (1) The Provincial Government shall appoint one of the Directors other than the Managing Director to be the Chairman of the Board. Chairman of the Board.

(2) Subject to his continuing to hold office as a Director, the Chairman shall hold office as Chairman for a term of three years and thereafter until his successor is appointed and shall be eligible for re-appointment.

(Sections 15—17.)

Technical
Advisory
Committee.

15. The Corporation shall appoint a Committee of experts to be called "The Technical Advisory Committee" to give it technical advice on schemes submitted to the Corporation for financial assistance or on any point that may be referred to the Committee by the Board.

Restriction
on disclosure
of informa-
tion.

16. No information given by a person applying for financial assistance and made known to the Committee shall be disclosed or used by any member of the Committee without the written consent of such person.

Meetings of
the Board
and the
Committee
and quorum
thereof.

17. (1) The meetings of the Board and the Executive Committee shall be held at such times and at such places as may be prescribed by rules:

Provided that until rules are made in this behalf such meetings shall be convened by the Chairman of the Board or the Committee, as the case may be.

(2) To constitute a quorum at a meeting of—

- (a) the Board, not less than three Directors shall be present;
- (b) the Executive Committee, not less than two members shall be present.

(3) At a meeting of the Board or of the Executive Committee, each Director or member of the Committee, as the case may be, shall have one vote, and in the event of equality of votes the Chairman shall have a casting vote.

(4) No Director shall vote on any matter relating to an industrial concern in which he is directly or indirectly interested.

(5) If for any reason the Chairman is unable to be present at a meeting—

- (a) of the Board, a Director other than the Managing Director authorised in writing by the Chairman shall preside at that meeting and in default of such authorisation the Directors present may elect a Chairman to preside at that meeting;
- (b) of the Executive Committee, a member authorised in writing by the Managing Director shall preside at that meeting and in default of such authorisation the members present may elect a Chairman to preside at that meeting.

(Sections 18—24.)

18. Directors other than the Managing Director and not being servants of the Government shall be paid such fees for attending the meetings of the Board or the Executive Committee, if they are members of it, as may be prescribed by the Board. Fees for attending meetings.

19. The Corporation shall establish its Head Office in Dacca. Offices.

20. The Corporation may open a deposit account with the National Bank of Pakistan, or where there is no branch of that Bank, with such other Bank as the Provincial Government may approve. Deposit accounts.

21. The Corporation may invest its funds in such securities or in such other manner as may be prescribed by rules. Investment of funds.

22. (1) The Corporation, with the prior approval of the Provincial Government, may issue and sell bonds and debentures carrying interest at such rates as may be approved by the Provincial Government for the purpose of raising its working capital: Borrowing power.

Provided that the total of sums due on such bonds and debentures issued and outstanding and of the contingent liabilities of the Corporation in respect of guarantees or underwriting agreements shall not at any time exceed five times the combined amount of the paid-up share capital and the reserve fund of the Corporation.

(2) The bonds and debentures of the Corporation shall be guaranteed by the Provincial Government as to the repayment of principal and payment of interest at such rate as may be fixed by the Provincial Government at the time when the bonds and debentures are issued.

23. The Corporation may accept deposits on such terms and conditions and to such extent as may be approved by the Provincial Government. Deposits.

24. (1) The Corporation shall take such measures as it thinks fit to render assistance in the development of film industry. Functions of the Corporation.

(2) In particular and without prejudice to the generality of the foregoing power, the Corporation may, in order to carry out the purposes of this Act,—

- (a) give loans to persons or companies for producing motion pictures, and establishment and maintenance of studios;

(Sections 25—28.)

(b) give loans to persons or corporations for setting up film studios;

(c) set up studios itself and to make available the use of such studios on hire to film producers:

Provided that the loans given or guaranteed under clauses (a) and (b) shall be repayable within a period not exceeding three years;

(d) prepare and submit to the Provincial Government schemes for the development of film industry and small-scale industries, including schemes of research in connection thereto;

(e) import cinematograph films and other necessary requisites for production or processing of films for distribution to film producers;

(f) give loans to motion picture exhibitors for purchase of projectors and ancillaries thereto.

This shall not include loans for lands, construction of buildings and fittings and furnishings.

Explanation.—Loans may be given by the Corporation in kind and may include letting of its studios on hire.

(3) Nothing in section 87A of the Companies Act, 1913 shall apply to the Corporation. VII
1913.

Limit of
accommoda-
tion.

25. The Corporation shall not grant or make any such loan as is mentioned in clause (a) or clause (b) or clause (f) of sub-section (2) of section 24 to an extent which in the aggregate exceeds 10 *per centum* of the paid-up share capital:

Provided that in individual cases the limit of ten *per centum* may be relaxed by the Provincial Government for special reasons on the recommendation of the Corporation, but in no case shall the amount of any loan exceed three lakhs of rupees.

Security for
loans.

26. No loan shall be made unless it is fully secured by pledge, mortgage, hypothecation or assignment of such property, movable or immovable, and of such value in proportion to the loan as may be prescribed.

Interest on
loans.

27. The rate of interest chargeable on loans made by the Corporation shall be determined and notified by the Provincial Government from time to time.

Limit of
loans.

28. The Corporation shall not make loans in excess of the following aggregate limits, namely:—

(a) when made to an individual—Rs.50,000.

of 1957.]

(Sections 29—32.)

(b) when made to a company—Rs.1,00,000:

Provided that the above limits may be relaxed by the Provincial Government in special cases for special reasons on the recommendation of the Corporation subject to the limit prescribed in the proviso to section 25.

29. (1) At the time of entering into any transaction under section 24, the Corporation may impose such conditions as it may think necessary or expedient for protecting its own interest and for securing that the loan, underwriting or other aid shall be put to the best use. Power to impose conditions.

(2) Where aid is granted on the condition that a Director shall be appointed by the Corporation to the Board of a Company, such condition shall have effect notwithstanding anything contained in the Companies Act, 1913, or any other law for the time being in force. / II of 1913.

30. The Corporation shall not—

- (a) accept deposits except as provided in or under this Act; or
- (b) subscribe directly to the shares or stock of any company having limited liability.

Prohibited business.

31. (1) For the purpose of granting a loan to an individual or a company in foreign currency, the Corporation may, with the previous consent of the Provincial Government and the Government of Pakistan, borrow any such currency from the International Bank for Reconstruction and Development or from other sources, and may pledge, mortgage, hypothecate or assign to the said Bank or other lender all or any part of the security taken by the Corporation for the loan granted in foreign currencies.

Loans in foreign currency.

(2) All loans granted in foreign currency shall be repayable either—

- (a) in the currency in which they are granted, or
- (b) in Pakistan currency at the rate of exchange prevailing on the date of repayment.

32. (1) Notwithstanding anything in any agreement, if—

- (a) it is found that the loan was obtained by information supplied by the borrower which was false or misleading in any material particular; or
- (b) the borrower is found to have committed a breach of the terms of his agreement with the Corporation relating to the loan; or

Power to demand immediate payment of the entire sum.

(Sections 32, 33.)

- (c) the loan or any part of it is found to have been utilized otherwise than for the purpose for which it was made; or
- (d) there is a reasonable apprehension that the borrower will be unable to pay his debts or may go into liquidation; or
- (e) the property pledged, mortgaged, hypothecated or assigned to the Corporation as security for the loan is not kept in a proper condition by the borrower or in case the property has depreciated in value by more than the prescribed percentage and the borrower is unable to give additional security to the satisfaction of the Corporation; or
- (f) without the permission of the Board the house, land or other property mortgaged as security for the loan is in any way disposed of or charged by the borrower; or
- (g) without the permission of the Board, machinery or other equipment is removed from the premises of the borrower's establishment without being replaced; or
- (h) for any other reason, it is necessary in the opinion of the Board to do so in order to protect the interests of the Corporation;

any officer of the Board authorised generally or specially in this behalf by the Board may by notice call upon the borrower to pay up the entire sum then remaining unpaid by the borrower in respect of the loan and the interest payable thereon, or any lesser sum, or require the borrower to comply with such directions as the Board may consider it necessary to give in order to safeguard its interest.

(2) Such notice shall specify the time within which the borrower was required to make the payment or to carry out the directions given, and shall also contain a warning that, if the borrower fails to pay the amount demanded or to carry out the directions given within the time specified, the Board may issue a certificate certifying the borrower to be a defaulter and certifying the sum due from the borrower to be recoverable as arrears of land revenue.

Certification
of sums re-
coverable.

33. (1) If the borrower fails to make the payment demanded or to carry out the directions given in a notice under section 32 within the time specified in the notice, the Board may issue a certificate in the prescribed form and manner certifying the borrower to be a defaulter and certifying the aggregate sum, including interest, payable

(Section 34.)

by the borrower to the Corporation on and up to the date of the certificate and the rate at which interest was payable thereon thereafter.

(2) Subject to the provisions of sub-section (3), a certificate issued under sub-section (1) shall be conclusive evidence that the sums certified in the certificate together with further interest at the rate certified were recoverable by the Corporation from the borrower, and such sums shall be immediately recoverable as arrears of land revenue.

(3) The borrower may appeal to the Provincial Government against a certificate issued under sub-section (1) within 15 days of its issue and the Provincial Government may cancel or modify the certificate.

34. (1) When a certificate under section 33 has been issued and is subsisting against a borrower, any officer nominated for this purpose by the Corporation may file a suit by presenting a plaint in the prescribed manner in the Court within the local limits of whose jurisdiction the loan was made or the establishment or concern in respect of which the loan was made or any immovable property charged as security was situated for any one or more or all of the following reliefs, namely :—

Special provisions for enforcement of the claims of the Corporation.

- (a) an order for the recovery of the amount due to the Corporation executable personally against the borrower and by a sale of the properties pledged, mortgaged, hypothecated or assigned by the borrower as security for the loan;
- (b) an injunction restraining the borrower from in any manner removing, transferring or disposing of any of the properties referred to in clause (a); and
- (c) an *ad interim* attachment attaching the properties referred to in clause (a) above and such other properties of the borrower as in the opinion of the Court may be sufficient to cover the claim of the Corporation against the borrower.

(2) The plaint under sub-section (1) shall be in the prescribed form and shall state the nature and extent of the claim of the borrower to the Corporation, the grounds on which it is made and such other particulars as may be prescribed.

Save as otherwise provided by this section, the provisions of the Civil Procedure, 1908, shall so far as may be applicable apply to the proceedings on such a plaint.

(Sections 35—37.)

(4) The borrower shall not appear to defend the suit unless he obtains leave from the Court as hereinafter provided so to appear and defend; and in default of his obtaining such leave or of his appearance and defence in pursuance thereof, the allegations in the plaint shall be deemed to be admitted and the Corporation shall be entitled to decree accordingly.

(5) If the borrower discloses such facts upon affidavit or otherwise as in the opinion of the Court are sufficient to entitle him to appear and defend the suit, the Court shall grant him leave to appear and defend. Such leave may be granted unconditionally or subject to such terms as to payment into Court, giving security framing and recording of issues or otherwise as the Court thinks fit.

(6) A decree passed under this section may be executed forthwith.

(7) After the decree the Court may under special circumstances set aside the decree and, if necessary, set aside execution and may give leave to the borrower to appear and defend the suit if it seems reasonable to the Court so to do, and on such terms as the Court thinks fit.

(8) A decree passed under this section shall be appealable.

Act XVIII of 1891 to apply to the books of the Corporation. 35. The Corporation shall be deemed to be a Bank for the purpose of the Banker's Book Evidence Act, 1891

Disposal of profit. 36. After making provision for bad and doubtful debts, depreciation of assets and any other matters which are usually provided for by bankers, the Corporation shall, out of its net annual profit, establish a Reserve Fund and may declare a dividend.

The rate of such dividend shall not exceed five per centum per annum.

General meetings 37. (1) A general meeting (hereinafter referred to as the annual general meeting) shall be held at the office of the Corporation annually within two months from the date on which the annual accounts of the Corporation are closed and a general meeting may be convened by the Board at any other time.

(2) The shareholders present at the annual general meeting shall be entitled to discuss the annual accounts and the annual report of the Board on the working of the Corporation and the auditors' report on the annual

of 1957.]

(Sections 38, 39.)

sheet and accounts, and to express their views in the form of resolutions; and the Corporation shall consider such views and give such effect to them as it considers fit.

38. (1) The accounts of the Corporation shall be Audit.
of audited by not less than two auditors holding a certificate under section 144 of the Companies Act, 1913, who shall be appointed by the Provincial Government on such remuneration as it may fix, and such remuneration shall be paid by the Corporation.

(2) Every auditor appointed under sub-section (1) shall be given a copy of the annual balance sheet of the Corporation, and shall examine it together with the accounts and vouchers relating thereto, and shall have a list delivered to him of all books kept by the Corporation, and shall at all reasonable times have access to the books, accounts and other documents of the Corporation, and may in relation to such accounts examine any Director or Officer of the Corporation.

(3) The auditors shall report to the shareholders upon the annual balance sheet and accounts and in their report they shall state whether in their opinion the balance sheet exhibits a true and correct view of the state of the Corporation's affairs according to the best of their information and the explanations given to them and as shown by the books of the Corporation, and whether in their opinion books of accounts have been kept by the Corporation in a proper manner and, in case they have called for any explanation or information from the Board, whether it has been given and whether it is satisfactory.

(4) The Provincial Government may at any time issue directions to the auditors requiring them to report to it upon the adequacy of the measures taken by the Corporation for the protection of interests of its shareholders and creditors or upon the sufficiency of their procedure in auditing the affairs of the Corporation, and may at any time enlarge or extend the scope of the audit or direct that a different procedure in audit be adopted or that any other examination be made by the auditor if in its opinion the public interest so requires.

39. (1) The Corporation shall furnish to all shareholders Returns.
within ten days of the date to which the statement relates, a statement in the prescribed form of its assets and liabilities as they stand at the close of business on the last Thursday of each month, or if that day is a public holiday under the Negotiable Instruments Act, 1881, then as they stand at the close of business on the preceding working day.
T of

(Sections 40—44.)

(2) The Corporation shall furnish in the prescribed form to the Provincial Government such returns and statements at such intervals as the Provincial Government may require from time to time.

(3) The Corporation shall furnish to the Provincial Government within two months of the close of the financial year an audited statement in the prescribed form of its assets and liabilities as they stand at the close of that year together with a profit and loss account for the year and a report on the working of the Corporation during the year, and copies of the said statement, account and report shall be published in the *Official Gazette* and shall be laid before the Provincial Legislature.

Liquidation
of Corpora-
tion.

40. No provision of law relating to the winding up of companies or corporations shall apply to the Corporation and the Corporation shall not be wound up save by order of the Provincial Government and in such manner as it may direct.

Indemnity of
Directors.

41. (1) Every Director shall be indemnified by the Corporation against all losses and expenses incurred by him in the discharge of his duties except such as are caused by his own wilful act or default.

(2) A Director shall not be personally responsible for the acts of any other Director or of any officer or servant of the Corporation for any loss or expense resulting to the Corporation by reason of the insufficiency or deficiency in value of or title to any property or security acquired or taken on behalf of the Corporation or by the wrongful act of any person under a liability to the Corporation, or by anything done by him in good faith in the execution of the duties of his office.

Declaration
of fidelity
and secrecy.

42. Every Director, auditor, officer or servant of the Corporation shall, before entering upon his duties, make a declaration of fidelity and secrecy.

Provision
relating to
income-tax
and super-
tax.

43. For the purposes of the Income Tax Act, 1922, the Corporation shall be deemed to be a company within the meaning of that Act, and shall be liable to income-tax and super-tax accordingly on its income, profits and gains. XI
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Offences.

44. (1) Whoever wilfully makes a false statement or knowingly makes use of any false statement for the purpose of obtaining a loan from the Corporation or of inducing the Corporation to accept any security in any form or kind shall be punishable with imprisonment for a term which may extend to two years, or with a fine which may extend to two thousand rupees, or with both.

1957.]

(Sections 45, 46.)

(2) Whoever being a member of the Board or of any committee of the Corporation discloses or uses for a purpose not connected with the discharge of his duties as a member of the Board or of such Committee any information supplied to the Corporation or to the Board or to the Committee by a person applying for financial assistance shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(3) No Court shall take cognizance of any offence punishable under this Act otherwise than on a complaint in writing signed by an officer of the Corporation authorised by the Board in this behalf.

45. The Provincial Government may make rules not inconsistent with this Act for the purpose of giving effect to the provisions of this Act, and where the regulations framed under the next succeeding section are inconsistent with the rules the rules shall prevail. Power of Provincial Government to make rules.

46. (1) The Board may, with the previous sanction of the Provincial Government, make regulations not inconsistent with this Act or the rules made under this Act to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act. Power of the Board to make regulations.

(2) In particular and without prejudice to the generality of the foregoing powers, such regulations may provide for—

- (a) the holding and conduct of elections under this Act including the final decision of doubts or disputes regarding the validity of elections;
- (b) the manner in which and the conditions subject to which the first allotment of the shares of the Corporation shall be made;
- (c) the manner in which and the conditions subject to which the shares of the Corporation may be held and transferred and generally all matters relating to the rights and duties of the shareholders;
- (d) the manner in which the general meeting shall be convened, the procedure to be followed thereat, and the manner in which the right to vote may be exercised;
- (e) the calling of the meetings of the Board and of the Executive Committee, fees for attending the meeting thereof and the conduct of business thereat;

(Section 46.)

- (f) the manner and terms of issue and redemption of bonds and debentures by the Corporation;
- (g) the conditions subject to which the Corporation may grant loans;
- (h) the form and manner of determining the sufficiency of the security taken under section 26;
- (i) the manner in which and the conditions subject to which the Corporation may borrow in foreign currency from foreign lenders;
- (j) the form of returns and statements required under this Act;
- (k) the terms and conditions of service, duties and conduct of officers and servants and agents of the Corporation;
- (l) the disclosure of interest, direct or indirect, of a Director of the Board in any application for loan;
- (m) the taking over of, and the management of the business of a subsidiary corporation or a company or co-operative society committing a breach of its agreement with the Corporation;
- (n) the preparation of annual estimates of income and expenditure of the Corporation in the prescribed form and their submission to the Board and the Provincial Government for approval on prescribed dates; and
- (o) the efficient conduct of the affairs of the Corporation generally.

(3) All regulations made under this section shall be published in the *Official Gazette*, and shall come into force on such publication.

East Pakistan Act XVI of 1957.

THE EAST PAKISTAN MINES AND MINERALS (REGULATION AND DEVELOPMENT) ACT, 1957¹.

[21st May, 1957.]

An Act to provide for the regulation of mines and for the development of minerals in East Pakistan.

WHEREAS it is expedient in the public interest to provide for the regulation of mines and for the development of minerals to the extent hereinafter specified;

It is hereby enacted as follows :—

1. (1) This Act may be called the East Pakistan Mines and Minerals (Regulation and Development) Act, 1957. Short title, extent and commencement.
- (2) It extends to the whole of East Pakistan.
- (3) It shall come into force at once.
2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.
 - (a) the expressions “lessor” and “lessee” respectively include a licensor and licensee;
 - (b) “minerals” mean minerals other than those specified below:—
 1. Beryllium ores,
 2. Cadmium ores,
 3. Boron ores,
 4. Cobalt ores,
 5. Graphite,
 6. Lithium ores,
 7. Tantalum ores,
 8. Titanium ores,
 9. Thorium minerals,
 10. Uranium minerals,
 11. Zirconium,
 12. Mineral oil,
 13. Natural Gas,

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 10th March, 1957, Pt. IVA, p. 278; for proceedings in the Assembly, see the proceedings of the meetings of the East Pakistan Legislative Assembly held on the 13th and 14th March, 1957.

(Sections 3, 4.)

14. Iron ores, such as, Hematite and Magnetite, but excluding yellow and red oxides,
15. Manganese,
16. Tungsten, and
17. Vanadium;

(c) "mine" means any excavation for the purpose of searching for or obtaining minerals as defined in clause (b); and

(d) "mining lease" means a lease granted for the purpose of searching for, winning, working, getting, making merchantable, carrying away or disposing of minerals as defined in clause (b) or for purposes connected therewith, and includes an exploring or a prospecting licence.

Mining lease

3. No mining lease shall be granted after the commencement of this Act otherwise than in accordance with the rules made under this Act.

Rule making powers.

4. (1) The Provincial Government may, by notification in the *Official Gazette*, make rules for regulating the grant of mining leases and for conservation and development of minerals.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely: —

- (a) the manner in which, and the authority to whom, application for the grant or renewal of an exploration or prospecting licence, a mining lease or other mining concession shall be made, and the prescribing of the fees to be paid on such application;
- (b) the conditions in accordance with which the grant or renewal of an exploration or prospecting licence, a mining lease or other mining concession may be made, and the prescribing of forms for the execution or renewal of such licence, lease, and concession;
- (c) the circumstances under which renewal of a licence, lease or concession as aforesaid may be refused, or any such licence, lease or concession whether granted or renewed may be revoked;
- (d) the determination of rates at which, and the conditions subject to which, royalties, rents and taxes shall be paid by licensees, lessees and grantees of mining concessions;
- (e) the refinement of ores;

(Sections 5—8.)

- (f) the control of production, storage and distribution of minerals;
- (g) the fixation of the prices at which minerals may be bought or sold;
- (h) development of mineral resources in any area by prescribing or regulating the use of any engines, machines or other equipments; and
- (i) any matter ancillary or incidental to the matters set out in the foregoing clauses of this sub-section.

5. In making any rule under the preceding section, the Provincial Government may direct that any breach of that rule shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both. Penalties.

6. Any rule made under this Act, and any order made under any such rule, shall have effect notwithstanding anything inconsistent therewith contained in any enactment or in any instrument having effect by virtue of an enactment other than this Act. Effect of rules, etc., inconsistent with other enactments.

7. The Provincial Government may, by notified order, declare that any mineral or any class or description thereof shall be exempt from all or any of the provisions of the rules made under this Act, or that such provisions shall apply thereto with such modification or subject to such conditions as may be specified in the order. Power to exempt.

8. Any prospecting licence, mining lease or mining concession in respect of any mineral granted or renewed by any authority prior to the date of the coming into force of this Act and in operation on the said date shall, so far as may be, be deemed to have been granted or, as the case may be, renewed in accordance with the provisions of the rules made under section 4 as if such rules had been in force at the time such licence, lease or concession was granted or renewed. Treatment of existing licences, etc.

East Pakistan Act XVII of 1957.

**THE EAST PAKISTAN SMALL AND COTTAGE INDUSTRIES CORPORATION
ACT, 1957.**

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East Pakistan Act XVII of 1957.

THE EAST PAKISTAN SMALL AND COTTAGE INDUSTRIES CORPORATION ACT, 1957¹.

[21st May, 1957.]

An Act to establish a Corporation for the purpose of promoting the development of ²[small] and cottage industries in East Pakistan;

WHEREAS it is expedient to establish a Corporation for the purpose of promoting the development of ²[small] and cottage industries in East Pakistan;

It is hereby enacted as follows:—

1. ³[(1) This Act may be called the East Pakistan Small and Cottage Industries Corporation Act, 1957].

Short title, extent and commencement.

(2) It extends to the whole of East Pakistan.

(3) It shall come into force on such date⁴ as the Provincial Government may, by notification in the *Official Gazette*, appoint.

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

Interpretation.

(a) “Board” means the Board of Directors of the Corporation;

(b) “borrower” means any person or persons or body of persons, whether incorporated or not, to whom a loan is made by the Corporation under this Act and the successors and assignees of such person or persons;

(c) “Corporation” means the ⁵[small] and Cottage Industries Corporation established by this Act;

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 10th March, 1957, Part IVA, page 296; for proceedings in the Assembly, see the proceedings of the meetings of the East Pakistan Legislative Assembly held on the 13th and 14th March, 1957.

The Act was applied to the Chittagong Hill-tracts with effect from the 16th July, 1959 vide Notification No. 2672-Ind., dated the 4th July, 1959, published in *Dacca Gazette*, dated 16th July, 1959, part I, page 561.

²The word within square brackets was substituted for the word “Small-Scale” by the East Pakistan Small-Scale and Cottage Industries Corporation (Amendment) Ordinance, 1958 (E. P. Ord. No. LXVII of 1958), section 3.

³This sub-section was substituted for the original sub-section (1) by section 4, *ibid*.

⁴The Act came into force with effect from the 30th May, 1957 vide Notification No. 980-Ind., dated 28th May, 1957, published in *Dacca Gazette, Extraordinary*, dated the 28th May, 1957, Pt. I, page 1289.

⁵The word within square brackets was substituted for the word “Small-Scale” by section 5, *ibid*.

(Sections 3, 4.)

- (d) "cottage industry" means an industry which is carried on wholly or mainly by the members of a family either as a wholetime or as a part-time occupation;
- (e) "prescribed" means prescribed by the rules or regulations made under this Act;
- (f) "scheduled bank" means a bank for the time being included in the list of banks maintained under sub-section (1) of section 37 of the State Bank of Pakistan Act, 1956: XXX of 19
- ¹[(g) "small industry" means an industrial establishment or unit which is run mainly by hired labour and not using mechanical motive power for any operation, or an industrial establishment or unit using mechanical motive power but does not normally employ more than 50 workmen and whose land, buldings and machinery do not exceed Rs.2,50,000 in value in either case;]
- (h) "State Bank" means the State Bank of Pakistan; and
- (i) "subsidiary corporation" means a corporation sponsored by the ²[Small] and Cottage Industries Corporation for the furtherance of its objectives, but operating in a specified area or areas or in respect of one or more specified industry.

Establish-
ment and
incorpora-
tion of
Corporation.

3. (1) A Corporation to be called "the ³[Small] and Cottage Industries Corporation" shall be established as soon as may be after the commencement of this Act.

(2) The Corporation shall be a body corporate by the name of the ²[Small] and Cottage Industries Corporation, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire and hold property, both movable and immovable, and shall by the said name sue and be sued.

Share capi-
tal and
shareholders.

4. (1) The authorised capital of the Corporation shall, in the first instance, be one crore of rupees, divided into one lakh fully paid up shares of Rs.100 each. These

¹This clause was substituted for the original clause (g) by the East Pakistan Small-Scale and Cottage Industries Corporation (Amendment) Ordinance, 1958 (E. P. Ord. No. LXVII of 1958), section 5.

²This word was substituted for the word "Small-Scale", *ibid*.

(Sections 5, 6.)

shares may be issued and allotted by the Corporation from time to time with the previous sanction of the Provincial Government.

(2) The authorised capital may, with the previous approval of the Provincial Government, be increased from time to time by the Corporation.

(3) The Provincial Government shall be a share-holder of the Corporation and shall subscribe to and hold not less than fifty-one *per centum* of the shares issued by the Corporation at any time; the remaining shares shall be reserved for public subscriptions.

5. (1) The amount subscribed on the shares of the Corporation and a minimum annual dividend thereon shall be guaranteed by the Provincial Government. Before the issue of any shares of the Corporation, the Provincial Government shall by notification in the *Official Gazette* fix the minimum rates of dividend payable on the shares, and the Corporation shall annually and regularly pay to the share-holders a dividend not less than that fixed by the Provincial Government.

Guarantee
by Provin-
cial Govern-
ment.

If at any time the Corporation is wound up, an amount not less than that subscribed on each share shall be payable to the share-holder.

(2) The shares and debentures of the Corporation shall be deemed to be "approved securities" for purposes of the Trusts Act, 1882.

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882.

6. (1) The general direction and administration of the Corporation and its affairs shall vest in a Board of Directors, which, with the assistance of an Executive Committee and a Managing Director, may exercise all powers and do all acts and things, which may be exercised or done by the Corporation.

Manage-
ment.

(2) The Board in discharging its functions shall act on commercial considerations and shall be guided on questions of policy by such directions as the Provincial Government, which shall be the sole judge whether a question is a question of policy, may give it.

(3) If the Board fails to carry out any direction given as aforesaid, the Provincial Government may remove the Directors, including the Chairman for reasons to be recorded in writing, and, notwithstanding anything in section 7, appoint persons in their place to be Directors temporarily until a fresh Board is constituted in accordance with the provisions of that section.

(Sections 7, 8.)

Board of Directors. 7. The Board of Directors shall consist of the following, namely:—

(a) four Directors to be appointed by the Provincial Government; and

(b) not more than three Directors to be elected in the prescribed manner by the share-holders of the Corporation other than the Provincial Government at any time being determined in accordance with the following table:—

If the total number of shares subscribed to by the share-holders other than the Provincial Government is equal to or exceeds.	The number of elected Directors shall be.
---	---

16-1/3 <i>per centum</i> of the total number of shares issued at the time	One.
---	------

32-2/3 <i>per centum</i> of the total number of shares issued at the time	Two.
---	------

49 <i>per centum</i> of the total number of shares issued at the time	Three.
---	--------

(c) the Managing Director to be appointed by the Provincial Government under section 9:

Provided that when the Board is first constituted the Directors referred to in clause (b) shall be appointed by the Provincial Government in accordance with the table given in the said clause from amongst the share-holders and shall, for the purpose of this Act, be deemed to be elected Directors.

Terms of
office of
Directors.

8. (1) A Director appointed by the Provincial Government shall hold office during the pleasure of the Provincial Government.

(2) An elected Director shall hold office for a period of three years, shall continue in office after the expiry of his term until his successor is elected, and shall be eligible for re-election.

(3) A casual vacancy in the office of the Director shall be filled by election or appointment, as the case may be,

(Sections 9, 10.)

and the Director elected or appointed to fill shall hold office for the unexpired period of his predecessor: ^{the} ^{the} vacancy term of

Provided that it shall not be necessary to fill a casual vacancy occurring within three months of the end of the term in which it occurs.

(4) No act or proceeding of the Board shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the composition of, the Board.

9. The Managing Director shall be appointed by the Provincial Government and shall— ^{Managing} ^{Director.}

(a) be an officer devoting his wholetime to the Corporation:

¹[Provided that the Provincial Government may, during the first three years after the establishment of the Corporation, exempt any Government servant appointed as Managing Director from the operation of this condition;]

(b) perform such duties as the Board may by regulations assign to him;

(c) divest himself of any directorship in any other corporation, company or concern;

(d) hold office, unless removed earlier by the Provincial Government, for a term of three years and shall be eligible for re-appointment for a further term or terms:

Provided that any such further term may be for such period not exceeding three years as the Provincial Government may determine; and

(e) be entitled to receive such salary and allowances as the Provincial Government may determine.

10. (1) The Executive Committee shall consist of three members, that is to say, the Managing Director (who shall be the Chairman of the Committee), one Director appointed by the Provincial Government from amongst the appointed Directors and one Director elected from amongst ^{Constitution} ^{and powers} ^{of the Exe-} ^{cutive Com-} ^{mittee.}

¹The proviso was added by the East Pakistan Small-scale and Cottage Industries Corporation (Amendment) Ordinance, 1958 (E. P. Ord. No. LXVII of 1958), section 7.

(Sections 11—13.)

the elected **Directors** in the prescribed manner by the share-holders of the Corporation other than the Provincial Government :

Provided that—

(a) if there is only one elected Director at any time, he shall be deemed to have been elected as a member ;

(b) if there is no elected Director at any time, the membership reserved for elected Directors shall be filled, until such time as a Director is elected, by a Director appointed by the Provincial Government from amongst the appointed Directors.

(2) An elected member shall hold office for three years and shall be eligible for re-election, but shall cease to hold office when he ceases to be an elected Director.

(3) Subject to such general or special directions as may from time to time be given by the Board, the Executive Committee shall be competent to deal with any matter within the competence of the Board.

(4) The minutes of every meeting of the Executive Committee shall be laid before the Board at its next following meeting.

Disqualification for the office of Director.

11. No person shall be or shall continue to be a Director who—

(a) is a salaried official of the Corporation other than the Managing Director, or

(b) is or at any time has been adjudicated insolvent, or

(c) is found to be lunatic or of unsound mind, or

(d) is or at any time has been convicted of an offence which in the opinion of the Provincial Government is an offence involving moral turpitude, or

(e) is a minor.

Directors absent from three consecutive meetings.

12. A person shall cease to be a Director if he absents from three consecutive meetings of the Board without leave of absence from the Chairman, or, in the case of the Chairman, from the Provincial Government.

Appointment of officers and advisers.

13. The Corporation may appoint or employ such persons, including advisors, as it considers necessary for the efficient performance of its functions.

(Sections 14—17.)

14. (1) The Provincial Government shall appoint one Chairman of the Directors other than the Managing Director to be the Board.
the Chairman of the Board.

(2) Subject to his continuing to hold office as a Director, the Chairman shall hold office as Chairman for a term of three years and thereafter until his successor is appointed and shall be eligible for re-appointment.

15. The Corporation shall appoint a Committee of Technical experts to be called "the Technical Advisory Committee" to give it technical advice on schemes submitted to the Corporation for financial assistance or on any point that may be referred to the Committee by the Board. Advisory Committee.

16. No information given by a person applying for financial assistance and made known to the Committee shall be disclosed or used by any member of the Committee without the written consent of such person. Restriction on disclosure of information.

17. (1) The meetings of the Board and the Executive Committee shall be held at such times and at such places as may be prescribed by rules : Meetings of the Board and the Committee.

Provided that until rules are made in this behalf such meetings shall be convened by the Chairman of the Board or the Committee, as the case may be.

(2) To constitute a quorum at a meeting of—

(a) the Board, not less than three Directors shall be present ;

(b) the Executive Committee, not less than two members shall be present.

(3) At a meeting of the Board or of the Executive Committee, each Director or member of the Committee, as the case may be, shall have one vote, and in the event of equality of votes, the Chairman shall have a casting vote.

(4) No Director shall vote on any matter relating to an industrial concern in which he is directly or indirectly interested.

(5) If for any reason the Chairman is unable to be present at a meeting—

(a) of the Board, a Director other than the Managing Director authorised in writing by the Chairman shall preside at that meeting and in default of such authorization the Directors present may elect a Chairman to preside at that meeting ;

(Sections 18—24.)

- (b) of the Executive Committee, a member authorised in writing by the Managing Director shall preside at that meeting and in default of such authorisation the members present may elect a Chairman to preside at that meeting.

Fees for
attending
meetings.

18. Directors other than the Managing Director and not being servants of the Government shall be paid such fees for attending the meetings of the Board or the Executive Committee, if they are members of it, as may be prescribed by the Board.

Offices.

19. The Corporation shall establish its Head Office in Dacca.

Deposit
accounts.

20. The Corporation may open a deposit account with the National Bank of Pakistan, or where there is no branch of that Bank, with such other bank as the Provincial Government may approve.

Investment
of funds.

21. The Corporation may invest its funds in such securities or in such other manner as may be prescribed by rules.

Borrowing
power.

22. (1) The Corporation, with the prior approval of the Provincial Government, may issue and sell bonds and debentures carrying interest at such rates as may be approved by the Provincial Government for the purpose of raising its working capital :

Provided that the total of the sums due on such bonds and debentures issued and outstanding and of the continuing liabilities of the Corporation in respect of guarantees or underwriting agreements shall not at any time exceed five times the combined amount of the paid-up share capital and the reserve fund of the Corporation.

(2) The bonds and debentures of the Corporation shall be guaranteed by the Provincial Government as to the repayment of principal and payment of interest at such rate as may be fixed by the Provincial Government at the time when the bonds and debentures are issued.

Deposits.

23. The Corporation may accept deposits on such terms and conditions and to such extent as may be approved by the Provincial Government.

Functions
of the Corpo-
ration.

24. (1) The Corporation shall take such measures as it thinks fit to render assistance in the development of cottage and [small] industries.

¹This word was substituted for the word "Small-scale" by the East Pakistan Small-Scale and Cottage Industries Corporation (Amendment) Ordinance, 1958 (E. P. Ord. No. LXVII of 1958), section 8.

(Section 24.)

(2) In particular and without prejudice to the generality of the foregoing power, the Corporation may, in order to carry out the purposes of this Act,—

- (a) give loans to cottage and ¹[small] industries ;
- (b) give loans to subsidiary corporations and commercial and co-operative banks and societies for the development of cottage and ¹[small] industries :

Provided that the loans given or guaranteed under clauses (a) and (b) shall be repayable within a period not exceeding twenty years ;

- (c) (i) prepare and submit to the Provincial Government schemes for the development of cottage and ¹[small] industries, including schemes of research and mechanisation ;
 - (ii) after these schemes have been approved by the Provincial Government, proceed to give effect to them by sponsoring subsidiary corporations or public companies ;
 - (iii) act as managing agents of such subsidiary corporations or companies, being in any case, represented on their Board of Directors ;
 - (iv) issue the capital required by the aforesaid subsidiary corporations and companies for public subscription ;
 - (v) if any portion of such capital remains unsubscribed for a period of four months from the date of issue, subscribe to such portion ;
 - (vi) underwrite the whole or any portion of the share capital so issued ; and
 - (vii) sell or transfer the shares subscribed to under sub-clause (v) ; provided that no such sale or transfer shall take place at a rate below the market quotation or below the par value of such shares without the previous sanction of the Provincial Government ;
- (d) arrange for the marketing of articles manufactured by cottage and ¹[small] industries ; ²*

¹This word was substituted for the word "Small-scale" by the East Pakistan Small-scale and Cottage Industries Corporation (Amendment) Ordinance, 1958 (E. P. Ord. No. LXVII of 1958), section 8.

²The word "and" was omitted, *ibid.*

(Sections 25, 26.)

- (e) maintain depots for the supply of raw materials to and purchase of finished products from cottage and ¹[small] industries and also maintain common facility centres to afford common facilities to ¹[small] and cottage industries.

Explanation.—Loans may be made by the Corporation in kind and may be in the form of factory buildings, residential houses or machinery and equipment on a hire-purchase basis ²[; and]

- ³[(f) prepare schemes to set up small industrial units in fields of high priority but whose private enterprise is not forthcoming after due advertisement, and on approval by the Provincial Government may execute them and after execution if the Corporation so decides, may with the previous approval of the Provincial Government transfer the ownership thereof for valuable consideration to any subsidiary Corporation, public company, partnership firm or person on terms approved by the Provincial Government.]

- (3) Nothing in section 87A of the Companies Act, VII of 1913, shall apply to the Corporation. 1913.

Limit of
accommoda-
tion.

25. The Corporation shall not grant or make any such loan or subscription as is mentioned in clause (a) or clause (b) or sub-clause (v) of clause (c) of sub-section (2) of section 24 to an extent which in the aggregate exceeds $7\frac{1}{2}$ per centum of the paid-up share capital :

Provided that in individual cases the limit of seven and a half per centum may be relaxed by the Provincial Government for special reasons on the recommendation of the Corporation, but in no case shall the amount of any loan exceed five lakhs of rupees.

Security for
loans or
subscrip-
tions.

26. No loan or subscription shall be made unless it is fully secured by pledge, mortgage, hypothecation or assignment of such property, movable or immovable, and of such value in proportion to the loan or subscription as may be prescribed :

Provided that where the loan or subscription is made to an individual and does not exceed one thousand rupees in the aggregate, it may be secured by a bond with one surety.

¹See foot note 1 on page. 625, *ante*.

²The semi-colon and the word "and" were substituted for the full-stop at the end of the explanation to clause (e) by the East Pakistan Small-scale and Cottage Industries Corporation (Amendment) Ordinance, 1958 (E. P. Ord. No. LXVII of 1958), Section 8.

³This clause was added, *ibid*.

(Sections 27—31.)

27. The rate of interest chargeable on loans made by the Corporation shall be determined and notified by the Provincial Government from time to time. Interest on loans.

28. The Corporation shall not make loans or subscriptions in excess of the following aggregate limits, namely:— Limit of loans.

(a) when made to an individual—¹[Rs.50,000].

(b) when made to a subsidiary corporation or a company or a bank or a co-operative society—²[Rs.1,50,000]:

Provided that the above limits may be relaxed by the Provincial Government in special cases for special reasons on the recommendation of the Corporation subject to the limit prescribed in the proviso to section 25.

29. (1) At the time of entering into any transaction under section 24, the Corporation may impose such conditions as it may think necessary or expedient for protecting its own interest and for securing that the loan, underwriting, subscription or other aid shall be put to the best use. Power to impose conditions.

(2) Where aid is granted on the condition that a Director shall be appointed by the Corporation to the Board of a Company or a subsidiary Corporation or the Managing Committee of a Co-operative Society, such condition shall have effect notwithstanding anything contained in the Companies Act, 1913, or any other law for the time being in force.

VII of 1913.

30. The Corporation shall not—

(a) accept deposits except as provided in or under this Act ; or

(b) subscribe directly to the shares or stock of any company having limited liability.

Prohibited business.

31. (1) For the purpose of granting a loan to a subsidiary corporation or a company or a Co-operative Society in foreign currency, the Corporation may, with the previous consent of the Provincial Government and the Government of Pakistan, borrow any such currency from Loans in foreign currency.

¹The letters and figures within square brackets were substituted for the letters and figures "Rs.10,000" by the East Pakistan Small scale and Cottage Industries Corporation (Amendment) Ordinance, 1958 (E. P. Ord. No. LXVII of 1958), section 9.

²The letters and figures within square brackets were substituted for the letters and figures "Rs.50,000". *ibid.*

(Section 32.)

the International Bank for Reconstruction and Development or from other sources, and may pledge, mortgage, hypothecate or assign to the said bank or other lender all or any part of the security taken by the Corporation for the loan granted in foreign currencies.

(2) All loans granted in foreign currency shall be repayable either—

- (a) in the currency in which they are granted, or
- (b) in Pakistan currency at the rate of exchange prevailing on the date of repayment.

Power to
demand
immediate
payment of
the entire
sum.

32. (1) Notwithstanding anything in any agreement, if—

- (a) it is found that the loan was obtained by information supplied by the borrower which was false or misleading in any material particular ; or
- (b) the borrower is found to have committed a breach of the terms of his agreement with the Corporation relating to the loan ; or
- (c) the loan or any part of it is found to have been utilized otherwise than for the purpose for which it was made ; or
- (d) there is a reasonable apprehension that the borrower will be unable to pay his debts or may go into liquidation ; or
- (e) the property pledged, mortgaged, hypothecated or assigned to the Corporation as security for the loan is not kept in a proper condition by the borrower or the property has depreciated in value by more than the prescribed percentage and the borrower is unable to give additional security to the satisfaction of the Corporation ; or
- (f) without the permission of the Board the house, land or other property mortgaged as security for the loan is in any way disposed of or charged by the borrower ; or
- (g) without the permission of the Board, machinery or other equipment is removed from the premises of the borrower's industrial establishment without being replaced; or
- (h) for any other reason, it is necessary in the opinion of the Board to do so in order to protect the interest of the Corporation;

any officer of the Board authorised generally or specially in this behalf by the Board may by notice call upon the

(Sections 33, 34.)

borrower to pay up the entire sum then remaining unpaid by the borrower in respect of the loan and the interest payable thereon, or any lesser sum, or require the borrower to comply with such directions as the Board may consider it necessary to give in order to safeguard its interest.

(2) Such notice shall specify the time within which the borrower was required to make the payment or to carry out the directions given, and shall also contain a warning that, if the borrower fails to pay the amount demanded or to carry out the directions given within the time specified, the Board may issue a certificate certifying the borrower to be a defaulter and certifying the sum due from the borrower to be recoverable as arrears of land revenue.

33. (1) If the borrower fails to make the payment demanded or to carry out the directions given in a notice under section 32 within the time specified in the notice, the Board may issue a certificate in the prescribed form and manner certifying the borrower to be a defaulter and certifying the aggregate sum, including interest, payable by the borrower to the Corporation on and up to the date of the certificate and the rate at which interest was payable thereon thereafter.

Certification
of sums re-
coverable.

(2) Subject to the provisions of sub-section (3), a certificate issued under sub-section (1) shall be conclusive evidence that the sums certified in the certificate together with further interest at the rate certified were recoverable by the Corporation from the borrower, and such sums shall be immediately recoverable as arrears of land revenue.

(3) The borrower may appeal to the Provincial Government against a certificate issued under sub-section (1) within 15 days of its issue and the Provincial Government may cancel or modify the certificate.

34. (1) When a certificate under section 33 has been issued and is subsisting against a borrower, any officer nominated for this purpose by the Corporation may file a suit by presenting a plaint in the prescribed manner in the Court within the local limits of whose jurisdiction the loan was made or the industrial concern in respect of which the loan was made or any immovable property charged as security was situated for any one or more or all of the following reliefs, namely:—

Special pro-
visions for
enforcement
of the claims
of the Cor-
poration.

- (a) an order for the recovery of the amount due to the Corporation executable personally against the borrower and by a sale of the properties pledged, mortgaged, hypothecated or assigned by the borrower as security for the loan;

[E. P. Act XVII]

(Sections 34—36.)

- (b) an injunction restraining the borrower from in any manner removing, transferring or disposing of any of the properties referred to in clause (a); and
- (c) an *ad interim* attachment attaching the properties referred to in clause (a) above and such other properties of the borrower as in the opinion of the Court may be sufficient to cover the claim of the Corporation against the borrower.

(2) The plaint under sub-section (1) shall be in the prescribed form and shall state the nature and extent of the liability of the borrower to the Corporation, the grounds upon which it is made and such other particulars as may be prescribed.

(3) Save as otherwise provided by this section, the Code of the Civil Procedure, 1908, shall so far as may be, applicable to the proceedings on such a plaint.

(4) The borrower shall not appear to defend the suit unless he obtains leave from the Court as hereinafter provided so to appear and defend; and in default of his obtaining such leave or of his appearance and defence in pursuance thereof, the allegations in the plaint shall be deemed to be admitted and the Corporation shall be entitled to a decree accordingly.

(5) If the borrower discloses such facts upon affidavit or otherwise as in the opinion of the Court are sufficient to entitle him to appear and defend the suit, the Court shall grant him leave to appear and defend. Such leave may be granted unconditionally or subject to such terms as to payment into Court, giving security framing and recording of issues or otherwise as the Court thinks fit.

(6) A decree passed under this section may be executed forthwith.

(7) After the decree the Court may under special circumstances set aside the decree and, if necessary, stay or set aside execution and may give leave to the borrower to appear and defend the suit if it seems reasonable to the Court so to do, and on such terms as the Court thinks fit.

(8) A decree passed under this section shall be appealable.

Act XVIII of 1891 to apply to the books of the Corporation.

35. The Corporation shall be deemed to be a Bank for the purpose of the Banker's Book Evidence Act, 1891.

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Disposal of profit.

36. After making provision for bad and doubtful debits, depreciation of assets and any other matters which are

(Sections 37, 38.)

usually provided for by bankers, the Corporation may, out of its net annual profit, establish a Reserve Fund and declare a dividend:

Provided that as long as the Reserve Fund remains less than the paid-up share capital of the Corporation and as long as any sums paid by the Provincial Government under any guarantee given in pursuance of section 5 or under any guarantee in pursuance of sub-section (2) of section 22 are not fully repaid to the Provincial Government by the Corporation, the rate of such dividend shall not exceed the rate guaranteed by the Provincial Government under section 5:

Provided further that no such dividend shall exceed the rate of five *per centum per annum*, and if in respect of any financial year after the Reserve Fund has become equal to the share capital of the Corporation, there remains after declaring a dividend at the aforesaid rate any surplus, such surplus shall be paid to the Provincial Government.

37. (1) A general meeting (hereinafter referred to as the annual general meeting) shall be held at the office of the Corporation annually within two months from the date on which the annual accounts of the Corporation are closed and a general meeting may be convened by the Board at any other time. General meetings.

(2) The share-holders present at the annual general meeting shall be entitled to discuss the annual accounts, the annual report of the Board on the working of the Corporation and the auditors' report on the annual balance sheet and accounts, and to express their views in the form of resolutions; and the Corporation shall consider such views and give such effect to them as it considers fit.

38. (1) The accounts of the Corporation shall be audited by not less than two auditors holding a certificate under section 144 of the Companies Act, 1913, who shall be appointed by the Provincial Government on such remuneration as it may fix, and such remuneration shall be paid by the Corporation. Audit.

II of
113.

(2) Every auditor appointed under sub-section (1) shall be given a copy of the annual balance sheet of the Corporation, and shall examine it together with the accounts and vouchers relating thereto, and shall have a list delivered to him of all books kept by the Corporation, and shall at all reasonable times have access to the books, accounts and other documents of the Corporation, and may in relation to such accounts examine any Director or officer of the Corporation.

(Sections 39, 40.)

(3) The auditors shall report to the share-holders upon the annual balance sheet and accounts and in their report they shall state whether in their opinion the balance sheet exhibits a true and correct view of the state of the Corporation's affairs according to the best of their information and the explanations given to them and as shown by the books of the Corporation, and whether in their opinion books of accounts have been kept by the Corporation in a proper manner and, in case they have called for any explanation or information from the Board, whether it has been given and whether it is satisfactory.

(4) The Provincial Government may at any time issue directions to the auditors requiring them to report to it upon the adequacy of the measures taken by the Corporation for the protection of the interests of its share-holders and creditors or upon the sufficiency of their procedure in auditing the affairs of the Corporation, and may at any time enlarge or extend the scope of the audit or direct that a different procedure in audit be adopted or that any other examination be made by the auditor if in its opinion the public interest so requires.

Returns.

39. (1) The Corporation shall furnish to all share-holders within ten days of the date to which the statement relates, a statement in the prescribed form of its assets and liabilities as they stand at the close of business on the last Thursday of each month, or if that day is a public holiday under the Negotiable Instruments Act, 1881, then as they stand at the close of business on the preceding working day. XXVI, 1881.

(2) The Corporation shall furnish in the prescribed form to the Provincial Government such returns and statements at such intervals as the Provincial Government may require from time to time.

(3) The Corporation shall furnish to the Provincial Government within two months of the close of the financial year an audited statement in the prescribed form of its assets and liabilities as they stand at the close of that year together with a profit and loss account for the year and a report on the working of the Corporation during the year, and copies of the said statement, account and report shall be published in the *Official Gazette* and shall be laid before the Provincial Legislature.

**Liquidation
of Corpora-
tion.**

40. No provision of law relating to the winding up of companies or corporations shall apply to the Corporation and the Corporation shall not be wound up save by order of the Provincial Government and in such manner as it may direct.

(Sections 41—44.)

41. (1) Every Director shall be indemnified by the Corporation against all losses and expenses incurred by him in the discharge of his duties except such as are caused by his own wilful act or default. Indemnity of Directors.

(2) A Director shall not be personally responsible for the acts of any other Director or of any officer or servant of the Corporation for any loss or expense resulting to the Corporation by reason of the insufficiency or deficiency in value of or title to any property or security acquired or taken on behalf of the Corporation or by the wrongful act of any person under a liability to the Corporation, or by anything done by him in good faith in the execution of the duties of his office.

42. Every Director, auditor, officer or servant of the Corporation shall, before entering upon his duties, make a declaration of fidelity and secrecy. Declaration of fidelity and secrecy.

43. For the purposes of the Income-tax Act, 1922, the Corporation shall be deemed to be a company within the meaning of that Act, and shall be liable to income-tax and super-tax accordingly on its income, profits and gains: Provision relating to income-tax, and super-tax.

Provided that any sum paid by the Provincial Government under the guarantee given in pursuance of section 5 or under any guarantee given in pursuance of sub-section (2) of section 22 shall not be treated as part of the income, profits and gains of the Corporation, and any interest on debentures or bonds paid by the Corporation out of such sum shall not be treated as expenditure incurred by it.

44. (1) Whoever wilfully makes a false statement or knowingly makes use of any false statement for the purpose of obtaining a loan from the Corporation or of inducing the Corporation to accept any security in any form or kind shall be punishable with imprisonment for a term which may extend to two years, or with a fine which may extend to two thousand rupees, or with both. Offences.

(2) Whoever being a member of the Board or of any Committee of the Corporation discloses or uses for a purpose not connected with the discharge of his duties as a member of the Board or of such Committee any information supplied to the Corporation or to the Board or to the Committee by a person applying for financial assistance shall be punishable with imprisonment for a term which may extend to six months, or with a fine which may extend to one thousand rupees, or with both.

[E. P. Act XVII]*(Sections 45, 46.)*

(3) No Court shall take cognizance of any offence punishable under this Act otherwise than on a complaint in writing signed by an officer of the Corporation authorised by the Board in this behalf.

Power of
Provincial
Government
to make
rules.

45. The Provincial Government may make rules not inconsistent with this Act for the purpose of giving effect to the provisions of this Act, and where the regulations framed under the next succeeding section are inconsistent with the rules, the rules shall prevail.

Power of
the Board to
make regu-
lations.

46. (1) The Board may, with the previous sanction of the Provincial Government, make regulations not inconsistent with this Act or the rules made under this Act to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such regulations may provide for—

- (a) the holding and conduct of elections under this Act including the final decision of doubts or disputes regarding the validity of elections;
- (b) the manner in which and the conditions subject to which the first allotment of the shares of the Corporation shall be made;
- (c) the manner in which and the conditions subject to which the shares of the Corporation may be held and transferred, and generally all matters relating to the rights and duties of the share-holders;
- (d) the manner in which the general meeting shall be convened, the procedure to be followed thereat, and the manner in which the right to vote may be exercised;
- (e) the calling of the meetings of the Board and of the Executive Committee, fees for attending the meeting thereof and the conduct of business thereat;
- (f) the manner and terms of issue and redemption of bonds and debentures by the Corporation;
- (g) the conditions subject to which the Corporation may grant loans;
- (h) the form and manner of determining the sufficiency of the security taken under section 26;

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(Section 46.)

- (i) the manner in which and the conditions subject to which the Corporation may borrow in foreign currency from foreign lenders;
 - (j) the form of returns and statements required under this Act;
 - (k) the terms and conditions of service, duties and conduct of officers and servants and agents of the Corporation;
 - (l) the disclosure of interest, direct or indirect, of a Director of the Board in any application for loan;
 - (m) the taking over of, and the management of the business of a subsidiary corporation or a company or co-operative society committing a breach of its agreement with the Corporation;
 - (n) the preparation of annual estimates of income and expenditure of the Corporation in the prescribed form and their submission to the Board and the Provincial Government for approval on prescribed dates; and
 - (o) the efficient conduct of the affairs of the Corporation generally.
- (3) All regulations made under this section shall be published in the *Official Gazette*, and shall come into force on such publication.

East Pakistan Act XVIII of 1957.

THE POLICE (EAST PAKISTAN AMENDMENT) ACT,
1957.¹

[21st May, 1957.]

An Act further to amend the Police Act, 1861.

WHEREAS it is expedient further to amend the Police Act V of 1861, for the purpose hereinafter appearing;

It is hereby enacted as follows:—

1. This Act may be called the Police (East Pakistan Short title. Amendment) Act, 1957.

2. After section 34 of the Police Act, 1861, the following section shall be added, namely:—

Insertion of
a new section
34A in Act
V of 1861.

“34A. (1) No person shall sell or offer for sale any ticket once issued for admission as spectator to any place of entertainment at a price higher than the price at which such ticket was originally issued.

Explanation.—In this section, the word “entertainment” means any exhibition, performance, amusement, game or sports to which persons are admitted as spectators on production of tickets and a “place of entertainment” shall be construed accordingly.

(2) Whoever contravenes the provision of sub-section (1) shall be liable to imprisonment for a term which may extend to three months or to a fine which may extend to one hundred rupees or to both.

(3) Any police officer not below the rank of Sub-Inspector or Sergeant may arrest without warrant any person committing an offence under sub-section (1).”

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 9th March, 1957, Pt. IV., P. 260; for proceedings in the Assembly, see the proceedings of the meetings of the East Pakistan Legislative Assembly held on the 12th and 14th March, 1957.

East Pakistan Act XXV of 1957.

THE BENGALI ACADEMY ACT, 1957¹.

[13th June, 1957.]

An Act to promote the culture and development of Bengali language and literature.

WHEREAS it is expedient to promote the culture and development of Bengali language and literature in East Pakistan and for that purpose to establish an Academy ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Bengali Academy Act, 1957. Short title, extent and commencement.

(2) It extends to the whole of East Pakistan.

(3) It shall come into force on such date² as the Provincial Government may, by notification in the *Official Gazette*, appoint.

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

- (a) "Academy" means the Bengali Academy constituted under section 3 ;
- (b) "Council" means the Council of the Academy constituted under section 8 ;
- (c) "Director" means the Director of the Academy appointed under section 11 ;
- (d) "Preparatory Committee" means the Preparatory Committee appointed by the Provincial Government by its Resolution No. 4416Edn., dated the 26th November, 1955, as amended by the notification Nos. 767Edn. and 769Edn., dated the 1st February, 1957 ;
- (e) "prescribed" means prescribed by rules made by the Council or the Preparatory Committee with a view to carrying out its objects ; and

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 31st March, 1957, Pt. IVA; p. 975; for proceedings in the Assembly, see the proceedings of the meetings of the East Pakistan Legislative Assembly held on the 1st and 3rd April, 1957.

²The Act came into force with effect from the 10th August, 1957, vide notification No. 5215 Edn., dated the 10th August, 1957, published in the *Dacca Gazette, Extraordinary*, dated the 10th August, 1957, Pt. I, p. 1569.

(Sections 3—5.)

(f) “Secretary” means the Secretary of the Academy appointed under section 12.

Establishment of the Bengali Academy and its Headquarters.

3. (1) There shall be established for the purpose of this Act an association to be called “The Bengali Academy”, which shall be a body corporate, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire and hold property both movable and immovable, and shall by the said name sue and be sued.

(2) The Headquarters of the Academy shall be located at Dacca.

Members of the Academy.

4. (1) The Academy shall consist of the following, namely :—

- (a) The Governor, East Pakistan—*Patron-in-chief*,
- (b) The Education Minister, East Pakistan—*The President (ex-officio)*,
- (c) The Vice-President.
- (d) The Patrons,
- (e) The Fellows,
- (f) The Life-Members, and
- (g) The Members.

(2) The Vice-President and the members of the Academy shall be elected in the prescribed manner :

Provided that the memberships shall be open only to distinguished scholars and persons of high literary or scientific merit.

Departments of the Academy.

5. (1) The Academy shall have the following Departments for carrying out the purposes of this Act, namely :—

- (a) The Research Department,
- (b) The Translation Department,
- (c) The Compilation Department,
- (d) The Publication and Sales Department,
- (e) The Cultural Department, and
- (f) The Library Department.

(2) The Academy shall have the power to create such other new Department or to abolish any of the Departments specified in sub-section (1) as it may deem fit.

of 1957.]

(Sections 6—8.)

(3) Each Department of the Academy shall perform such duties and functions as may be prescribed from time to time.

6. The Academy shall have the following powers, namely :—

Powers of the Academy.

- (a) to organise, expand and control its Departmental activities,
- (b) to offer the honour of being a Patron, a Fellow, a Life-Member of the Academy on any person who is, in the opinion of the Council, fit to be so honoured,
- (c) to award medals, titles, prizes, rewards, *honoraria* to persons who, in the opinion of the Council, have made notable contributions to the study of Bengali language and literature or to the study of any other science,
- (d) to affiliate the Bengali Literary Associations in Pakistan with a view to fostering literary and other activities similar to those of the Academy and to render suitable financial help to them,
- (e) to render financial help to the indigent but meritorious Bengali writers and research workers,
- (f) to determine the service conditions of the Academy's employees,
- (g) to enter into contracts with authors and others in fulfilment of the aims and objects of this Act,
- (h) to commission individuals or organisation or both for undertaking specific activities of different Departments of the Academy,
- (i) to maintain close relationship with Universities and other institutions carrying on research works, and
- (j) to do such other acts and things, as may be necessary for furthering the aims and objects of the Academy.

7. The Annual General Meeting of the Academy shall be held within three months of the close of the financial year or at such other time as the Council may decide.

Annual General Meeting.

8. (1) There shall be constituted a Council consisting of the following members, namely :—

Constitution of the Council and filling up of casual vacancies.

- (a) The Director—*President (ex-officio)*,
- (b) The Director of Public Instructions, East Pakistan —*Member (ex-officio)*,

[E. P. Act XXV]

(Sections 8, 9.)

- (c) Heads of the Departments of Bengali of the Dacca University and the Rajshahi University—(*ex-officio*),
- (d) Three members to be nominated by the Provincial Government from among the members of the Academy,
- (e) Two writers of Bengali creative literature like poems, novels, short-stories, dramas, romances, to be co-opted in the first meeting of the Council, and
- (f) Six members to be elected from among the members of the Academy in the prescribed manner by the members of the Academy.

(2) The nominated, co-opted and elected members under clauses (d), (e) and (f) respectively shall hold office for a term of three years.

(3) A new member shall be nominated, co-opted or elected, as the case may be, to fill up a casual vacancy, and such nominated, co-opted or elected member shall hold office for the unexpired portion of the term of office of the member in whose place he is nominated, co-opted or elected, as the case may be :

Provided that the casual vacancy shall not be filled when the term has been less than three months to run from the date on which it would, but for this proviso, have been possible to nominate, co-opt or elect to the vacancy.

(4) A retiring member shall be eligible for fresh nomination or co-option or re-election.

(5) The manner of election shall be prescribed by the Council.

(6) When two or more members secure equal number of votes and none of them offers to withdraw, the matter may be decided by lot.

Transitory
provision.

9. (1) Notwithstanding anything contained in section 8, and until the Council is constituted in accordance with the provisions of this Act, the Preparatory Committee shall be deemed to be the Council constituted under the provisions of this Act and shall exercise all the powers vested in, or exercisable by, the Council or the Academy under this Act.

(2) The term of office of the members of the Preparatory Committee deemed to be the Council under subsection (1) shall not exceed one year from the date of

of 1957.]

(Sections 10, 11.)

commencement of this Act. During this period the Provincial Government may increase the personnel of the said Preparatory Committee, but the members of the Preparatory Committee shall not be more than 15. During this period the said Preparatory Committee shall frame rules and do all other acts that may be necessary for the purpose of giving effect to the provisions of this Act.

10. (1) The administration of the Academy shall vest in the Council. Powers of the Council.

(2) The Council shall—

- (i) perform all the executive functions of the Academy in its name, including the approval of the Annual Budget for submission to the Academy ;
- (ii) create or abolish or amalgamate post or posts on the recommendation of the Director for improvement of the administration of the Academy. Such action of the Council shall have to be reported to the Academy ;and
- (iii) execute all the decisions of the Academy.

(3) The Council may delegate in writing any of its functions or duties to the Director.

11. (1) There shall be a Director who shall be appointed by the Provincial Government on such terms and conditions as may be determined by it and who shall be the executive Head of the Academy and shall be responsible for carrying out the decisions of the Council, and for the proper administration of the Academy. Director.

(2) He shall prepare a report for each financial year on the activities of the Academy and the Council during the financial year and shall submit the same to the Academy at its next Annual General Meeting after the close of that year.

(3) In case of urgent matters of the Academy, he shall have power to take appropriate action on behalf of the Council with reasons to be recorded in writing, subject to the report to the next meeting of the Council.

(4) He shall initiate policies for consideration and approval of the Council, in addition to the policies to be initiated by the members of the Council with due notice.

(5) He may make temporary appointment of officers and assistants for the period not exceeding 4 months in cases of immediate necessity.

[E. P. Act XXV**(Sections 12, 13.)**

(6) He shall have power to draw his own travelling allowance bills and to countersign the travelling allowance bills of all others including the members of the Council in prescribed manner.

(7) He shall control the Budget passed by the Council. He shall also have power to divert expenditure from one head to another by way of adjustment according to necessity, subject to a report to the Council at the end of the financial year, showing the adjustment made with reasons for doing so.

(8) He shall have power to allow expenditure for making payment to the staff of the Academy and for its normal contingency for a period in between the passage of the Budget and the close of the financial year.

Secretary.

12. (1) There shall be a Secretary to the Academy who shall be appointed by the Provincial Government from among the members of the Senior Education Service and shall hold office for such period and receive such allowances as may be determined by the Provincial Government.

(2) He shall act as the Secretary to the Council, but he will not be a member of the Council.

(3) He shall remain in-charge of the office of the Academy and maintain its records.

(4) He shall prepare the Annual Budget of the Academy in consultation with the Director and place it before the Council for approval.

(5) He shall be the Drawing and Disbursing Officer of the Academy. In the absence of the Secretary, the Director may assume the charge of the Secretary in addition to his own duties.

(6) He shall get the accounts of the Academy audited before the date of the Annual General Meeting each year by a member of the Audit Staff of the Accountant-General, East Pakistan, by negotiation with the Government and report the results of audit to the Council for information and necessary action.

Meetings of the Academy.

13. (1) The Academy shall meet at least once a year in a meeting to be called "The Annual General Meeting":

Provided that the Director in consultation with the President of the Academy may convene a General Meeting whenever necessary.

of 1957.]

(Sections 13, 14.)

(2) Fifteen members shall form the quorum for General Meeting of the Academy. If a meeting is adjourned for want of a quorum, no quorum shall be necessary at the adjourned meeting.

(3) The President of the Academy will preside over these meetings, and in his absence, the Vice-President, and in the absence of both the President and Vice-President, any member voted to the Chair.

(4) The Council shall fix the venue and the date of the "Annual General Meeting" of the Academy and the Director shall notify accordingly ordinarily a month before the date fixed.

(5) No requisition meeting of the Academy shall be called unless at least one-third of the members make the requisition.

(6) At the General Meeting, every member present shall have one vote. In the case of equality of votes, the Chairman will have a casting vote in addition to his own.

(7) At any meeting, a declaration by the Chairman that a resolution has been carried or lost shall be conclusive.

14. (1) The Council shall ordinarily meet once in four months, provided that the Secretary in consultation with the Director may convene a meeting, whenever he considers it necessary. Meetings of the Council.

(2) Five members shall form a quorum for the purpose of holding a meeting of the Council. If a meeting is adjourned for want of a quorum, no quorum shall be necessary at the adjourned meeting.

(3) The Director shall preside over a meeting of the Council, and in his absence, members present shall elect a Chairman to conduct the business of the meeting.

(4) No requisition meeting of the Council shall be called unless at least two-thirds of the members make the requisition.

(5) Ordinarily, ten days' notice shall be required for holding a meeting of the Council provided that the Director shall have the power to waive this condition in urgent cases.

(6) All decisions of the Council must be based on votes of the majority of the members present and voting. In case of equality of votes, the Chairman of the meeting may exercise a casting vote in addition to his own vote.

(Section 15.)

(7) No proceedings or decisions of the Council shall be invalid by reason of the existence of any vacancy or any defect in the Constitution of the Council.

(8) Proceedings of the meetings of the Council shall be recorded, circulated to the members within a week and submitted for confirmation at the next meeting of the Council. They shall be considered correctly recorded, if no objection in writing is raised by any member present at the meeting within a fortnight of the circulation of the minutes.

(9) The decision of a meeting of the Council may, however, be given effect to by the Director, before the proceedings are confirmed, whenever necessary.

Fund of the
Academy.

15. (1) There shall be constituted a fund called "The Bengali Academy Fund" which shall be derived from the following sources, namely :—

- (a) Grants from the Central Government or the Provincial Government ;
- (b) Membership fees ;
- (c) Donation in cash or kind ;
- (d) The sale-proceeds and royalties accruing from the Academy's publications ; and
- (e) Such other moneys as may be received by the Academy.

(2) The Bengali Academy Fund shall be vested in the Academy and shall be administered by the Academy and applied for the purpose of this Act in such manner as may be prescribed.

(3) The Fund of the Academy shall be kept in a Scheduled Bank to be approved by the Council in the name of the Academy.

(4) All payments of a sum of Rs.100 (one hundred) or above must be paid by cheques and all cheques drawn on the Bank shall be prepared by the Cashier on the basis of the bills passed by the Accountant and signed by the Secretary after proper checking of the payments to be made.

(5) The Secretary shall have a permanent Advance of Rs.250 (two hundred and fifty) only for the day-to-day expenditure of the Academy.

of 1957.]

(Sections 16, 17.)

16. If any difficulty arises with respect to the establishment of the Academy or Council or in connection with any meeting of the Academy or Council or in any manner giving effect to the provisions of this Act, the Provincial Government may, at any time, by order, remove such difficulty and every such order shall have effect as if such order has been passed in a manner provided in this Act. Removal of difficulties

17. (1) The Council may make rules, not inconsistent with the provisions of this Act, for carrying out the purposes of this Act. Rule-making power of the Council.

(2) Without prejudice to the generality of the power conferred by sub-section (1), such rules may provide for all or any of the following matters, namely :—

- (a) Membership of the Academy under section 4;
- (b) function and conduct of work of different Departments of the Academy under section 5 ;
- (c) service conditions of the Academy's employees under section 6 ;
- (d) manner of election to the Council under section 8 ;
- (e) manner of drawing travelling allowances under section 11 ;
- (f) meeting of the Academy and the Council under sections 13 and 14 ;
- (g) funds and accounts under section 15 ; and
- (h) such other matters of the Academy as may be considered necessary from time to time.

East Pakistan Act XXVI of 1957

THE EAST PAKISTAN ANTI-CORRUPTION ACT, 1957.¹

[17th August, 1957.]

An Act to provide for constitution of a Bureau for enquiry into, and investigation of, offences relating to corruption and for more effective prevention of corruption.

WHEREAS it is expedient to constitute a Bureau for East Pakistan for enquiry into, and investigation of, offences relating to corruption and for making provision for enquiry into the pecuniary resources of certain persons for more effective prevention of corruption and for certain other purposes;

It is hereby enacted as follows:—

1. (1) This Act may be called the East Pakistan Anti-Corruption Act, 1957.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of East Pakistan.

(3) It shall come into force at once.

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

Definitions.

(a) "Bureau" means the East Pakistan Bureau of Anti-Corruption constituted under sub-section (1) of section 3;

(b) "Director-General" means the Director-General of the East Pakistan Bureau of Anti-Corruption appointed under section 7; and

(c) "prescribed" means prescribed by rules made under this Act.

3. (1) Notwithstanding anything contained in the Police Act, 1861, the Provincial Government may constitute a Bureau to be called the East Pakistan Bureau of

Constitution
and powers of
the Bureau.

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 27th March, 1957, Pt. IVA, p. 456; for proceedings in the Assembly, see the proceedings of the meeting of the East Pakistan Legislative Assembly held on the 28th March, 1957.

The Act was extended to the Chittagong Hill-tracts, vide notification No. 26A. C., dated the 7th January, 1958, published in the *Dacca Gazette*, dated the 23rd January, 1958, Part I, P. 165.

(Section 4.)

Anti-Corruption for enquiry into and investigation in East Pakistan of, the offences specified in the Schedule and offences notified by the Provincial Government.

(2) Subject to any orders which the Provincial Government may make in this behalf, officers of the Bureau shall have throughout the Province in relation to the enquiry into, and investigation of, such offences all powers of seizure, search and arrest of persons concerned in such offences and all other powers, duties, privileges and liabilities which the police officers of the Province have in connection with the investigation of such offences.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, any officers of the Bureau may, subject to any orders which the Provincial Government may make in this behalf, exercise any of the powers of an officer-in-charge of a Police Station in the area in which he is for the time being and when so exercising such powers shall, subject to any such orders as aforesaid, be deemed to be an officer-in-charge of a Police Station discharging the functions of such an officer within the limits of his station. v of 1898.

**Declaration
of assets.**

4. (1) When the Provincial Government, on receipt of information and after making such enquiries as it may deem necessary, is satisfied that there is reason to believe that any person or any other person on his behalf is in possession of pecuniary resources or property disproportionate to his known sources of income, it may, by order, require such person to furnish in the prescribed manner and within the prescribed time a statement of his property and liabilities and such information relating thereto as may be required by the order.

(2) If such person—

- (a) upon being so required by an order under sub-section (1) fails to furnish the statement or information or furnishes a statement or information which he knows or has reasonable cause to believe to be false, or not true, in any material particular, or
- (b) makes in any book, account, record, declaration, return or other document which he is required by an order under sub-section (1) to furnish any statement which he knows or has reasonable cause to believe to be false, or not true, in any material particular,—

he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

of 1957.]

(Sections 5—7.)

5. (1) Whoever has in his possession any property, movable or immovable, either in his own name or in the name of any other person on his behalf, which there is reason to believe to have been acquired by improper means and which is proved to be disproportionate to his known sources of income, shall, if he fails to account for such possession to the satisfaction of the Court, be punishable with imprisonment for a term which may extend to 7 years and with fine, and on such conviction the property found to be disproportionate to the known sources of income of the accused by the Court shall be forfeited to the Provincial Government.

Possession of property disproportionate to known sources of income.

(2) When in any trial of an offence under sub-section (1), the fact that the accused person or any other person on his behalf is in possession of property, movable or immovable, disproportionate to his known sources of income, is proved, the Court shall presume, unless contrary is proved, that the accused person is guilty of such offence and his conviction therefor shall not be invalid by reason only that it is based on such presumption.

(3) The reference in sub-section (1) to property acquired by improper means shall be construed as a reference to property acquired by means which are contrary to law or to any rule or instrument having the force of law or by coercion, undue influence, fraud or misrepresentation within the meaning of the Contract Act, 1872.

[5A. Notwithstanding anything contained elsewhere in this Act any officer of the Bureau not below the rank of Inspector may arrest without warrant any person when there is reason to believe that such person owns or possesses any property, movable or immovable either in his own name or in the name of any other person on his behalf which is disproportionate to his known sources of income.]

Power of arrest without warrant.

6. Previous sanction of the Provincial Government shall be necessary for any prosecution under section 4 or section 5.

Sanction to prosecute.

7. The administration of the Bureau shall vest in the Director-General of the East Pakistan Bureau of Anti-Corruption appointed in this behalf by the Provincial Government who shall exercise in respect of the said Bureau such powers as the Provincial Government may specify in this behalf.

Administration of the Bureau.

¹This section was added by the East Pakistan Anti-Corruption (Amendment) Ordinance, 1958 (E. P. Ord. LXXII of 1958), section 2.

[E. P. Act XXVI of 1957.]

(Sections 8—10 and The Schedule.)

Presump-
tion as to
orders.

8. (1) No suit or legal proceeding shall lie against the Provincial Government or the Director-General in respect of anything which is, in good faith, done or intended to be done under this Act.

(2) The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.

Delegation
of power.

9. The Provincial Government may direct that any power or duty which is conferred or imposed by this Act upon the Provincial Government shall, in such circumstances and under such conditions as may be specified in the direction, be exercised or discharged by the Director-General or any other officer subordinate to the Provincial Government.

Power of the
Provincial
Government
to make
rules.

10. The Provincial Government may make rules consistent with the provisions of this Act to carry out the purposes of the Act.

THE SCHEDULE.

[Vide, section 3(1).]

(a) Offences under this Act.

(b) Offences punishable under the Prevention of Corruption Act, 1947 (Act II of 1947).

(c) Offences punishable under sections 120—B, 161 to 169, 201, 217, 218, 379 to 382, 403 to 409, 411, 414, 417 to 420, 465 to 468, 471, 474, 477A and 511 of the Pakistan Penal Code (Act XLV of 1860).

(d) Offences punishable under the East Pakistan Control of Essential Commodities Act, 1956 (East Pakistan Act I of 1956).

(e) Offences punishable under the Hoarding and Black Market Act, 1948 (Act XXIX of 1948).

(f) Offences punishable under the Prevention of Smuggling Act, 1952 (Act No. LVIII of 1952).

(g) Offences punishable under the Essential Articles (Price Control and Anti-Hoarding) Act, 1953 (East Bengal Act No. XXII of 1953).

(h) Offences punishable under the Imports and Exports (Control) Act, 1950 (Act No. XXXIX of 1950).

(i) Offences punishable under the East Bengal (Smuggling of Foodgrains) Act, 1950 (Act No. LXXVI of 1950).

(j) Attempts, abetments and conspiracies in relation to, or connected with, offences mentioned in clauses (a) to (i) above.

East Pakistan Act XXVIII of 1957.

**THE EAST PAKISTAN (RURAL) PRIMARY EDUCATION
(SUPPLEMENTARY PROVISIONS) ACT, 1957¹.**

[23rd October, 1957.]

*An Act to provide for direct administration of primary
education by the Provincial Government.*

WHEREAS it is expedient to provide for direct administration of primary education by the Provincial Government in the whole of the Province of East Pakistan except the district of Sylhet and to that end to supplement the law relating to primary education and to amend the Bengal Village Self-Government Act, 1919;

Ben. Act.
V of 1919.

It is hereby enacted as follows:—

1. (1) This Act may be called the East Pakistan (Rural) Primary Education (Supplementary Provisions) Act, 1957.

Short title,
extent and
commence-
ment.

(2) It extends to the  of East Pakistan except the district of Sylhet.

(3) It shall come into force at once.

2. Notwithstanding anything contained in the Bengal (Rural) Primary Education Act, 1930 and the Bengal Village Self-Government Act, 1919, to the contrary,—

Ben. Act.
VII of
1930.
Ben. Act.
V of 1919.

Abolition of
District
School
Boards and
vesting
powers in the
District
Magistrates.

Ben. Act.
VII of
1930.

(1) The District School Boards constituted under the provision of the Bengal (Rural) Primary Education Act, 1930, shall cease to exist with effect from the date of coming into force of this Act and all powers conferred or duties imposed on such Boards shall vest in the District Magistrate of the district concerned and shall be exercisable by him under the provision of the said Act and he shall be responsible to the Provincial Government for proper discharge of the duties imposed on him.

(2) The District Inspector of Schools shall be the Chief Executive Officer for the administration, control and development of primary education

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 18th September, 1957, Pt. IVA, p. 1901; for proceedings in the Assembly, see the proceedings of the meetings of the East Pakistan Legislative Assembly held on the 21st, 23rd and 24th September, 1957.

(Sections 3—6.)

in the district and he shall exercise such powers and perform such duties as may be delegated to him by the District Magistrate.

Assets of District School Boards to vest in the Provincial Government. 3. All assets including movable and immovable properties and liabilities of the District School Boards shall vest in the Provincial Government with effect from the date of coming into force of this Act.

Amendment of sections 37 and 46 of Ben. Act V of 1919. 4. In clause (c) of section 37 and in the third proviso to sub-section (2) of section 46 of the Bengal Village Self-Government Act, 1919, the words and letters "Chapter XA of" shall be *omitted*. Ben. Ac
V of 1919

Directions by the Provincial Government. 5. Notwithstanding anything contained in any other law for the time being in force, the Provincial Government may give directions to the District Magistrate or the District Inspectors of Schools to perform specified duties in respect of primary education, and the District Magistrates or the District Inspectors of Schools shall comply with such directions.

Repeal and savings. 6. (1) The East Pakistan (Rural) Primary Education (Supplementary Provisions) Ordinance, 1957, is hereby repealed. E. P. Ord
XV of
1957.

(2) Any orders passed or appointments made, any notification issued or any direction given or anything done or any action taken or any proceedings commenced or any penalty imposed under any provision of the said Ordinance and in force immediately before the commencement of this Act shall continue in force and be deemed to have been passed, made, issued, given, done, taken, commenced or imposed, as the case may be, under the corresponding provision of this Act, as if this Act had commenced on the date of coming into force of that Ordinance.

East Pakistan Act XXXI of 1957.

THE ELECTRICITY (EAST PAKISTAN AMENDMENT)
ACT, 1957¹.

[26th October, 1957.]

An Act to amend the Electricity Act, 1910

Act IX of 1910. WHEREAS it is expedient to amend the Electricity Act, 1910, for the purpose and in the manner hereinafter appearing;

It is hereby enacted as follows:—

1. (1) This Act may be called the Electricity (East Pakistan Amendment) Act, 1957. Short title and commencement.

(2) It shall come into force at once.

Act IX of 1910. 2. In section 5 of the Electricity Act, 1910, for clauses (c) and (d), the following shall be substituted, namely:— Amendment of section 5 of Act IX of 1910.

“(c) where the public interest so requires, the Provincial Government may, if it thinks fit, elect to purchase the undertaking immediately after revoking the license of the licensee under section 4 and require the licensee to sell and thereupon the licensee shall sell the undertaking to the Provincial Government,

(d) where the Provincial Government elects to purchase the undertaking, it may take over and work the undertaking pending completion of the sale upon terms and conditions similar to those set forth in clause (b) and the licensee shall make over the undertaking to the Provincial Government on the date and time fixed by it.”

E. P. Ord. VII of 1957. 3. (1) The Electricity (East Pakistan Amendment) Ordinance, 1957, is hereby repealed. Repeal and savings.

(2) Any orders passed or appointments made, any notification issued or any direction given or anything done or any action taken or any proceedings commenced or any penalty incurred under any provision of the said Ordinance and in force immediately before the commencement of this Act shall continue in force and be deemed to have been passed, made, issued, given, done, taken, commenced or incurred, as the case may be, under the corresponding provision of this Act, as if this Act had commenced on the date of coming into force of that Ordinance.

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 19th September, 1957, Pt. IVA, p. 1904; for proceedings in the Assembly, see the proceedings of the meetings of the East Pakistan Legislative Assembly held on the 24th and 27th September, 1957.

East Pakistan Act XXXIII of 1957.

THE EAST PAKISTAN STATE ACQUISITION (AD-INTERIM PAYMENT) ACT, 1957¹.

[26th October, 1957.]

An Act to make provisions for more expeditious ad-interim payment.

E. B. Act. XXVIII of 1951. WHEREAS under sub-section (1) of section 6 of the East Bengal State Acquisition and Tenancy Act, 1950, a rent-receiver whose rent-receiving interests not held under *wakf*, *wakf-al-aulad*, *debutter* or any other trust are acquired under sub-section (1) of section 3 of that Act is, with effect from the date of acquisition, entitled to receive annually in cash in respect of such interests an *ad-interim* payment at the rate of one-third of the net income on account of the demands of rent and cesses for any period after the date of acquisition collected by the Provincial Government for such interests in the year to which such payment relates;

AND WHEREAS in the cases of such rent-receiving interests acquired after the 1st April, 1956, under sub-section (1) of section 3 of the said Act, it will take much time to collect necessary details and start and maintain separate accounts of collections of rents and cesses made by the Provincial Government in respect of such rent-receiving interests held by each rent-receiver for complying with the provisions of sub-section (1) of section 6 of the said Act;

AND WHEREAS the making of *ad-interim* payments in such cases according to the provision of sub-section (1) of section 6 of the said Act will, in the aforesaid circumstances, be much delayed and will consequently cause much hardship to the rent-receivers concerned;

AND WHEREAS in order to avoid such hardship, it is considered expedient to make provisions for more expeditious *ad-interim* payments in such cases on a simpler basis;

It is hereby enacted as follows:—

1. (1) This Act may be called the East Pakistan State Acquisition (*Ad-interim* Payment) Act, 1957.
- (2) It extends to the whole of East Pakistan.
- (3) It shall come into force at once.

Short title, extent and commencement.

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 12th September, 1957, Pt. IVA, p., 1803; for proceedings in the Assembly, see the proceedings of the meetings of the East Pakistan Legislative Assembly held on the 21st and 27th September, 1957.

(Sections 2, 3.)

Definitions.

2. In this Act, unless there is anything repugnant to the subject or context,—

(1) “prescribed” means prescribed by rules made under this Act;

(2) “Revenue-officer” includes any officer whom the Provincial Government may appoint to discharge all or any of the functions of a Revenue-officer under this Act or any rules made thereunder; and

(3) all other words and expressions used in this Act shall have the same meanings as in the East Bengal State Acquisition and Tenancy Act, 1950. E. B. Act. XXVIII of 1951.

Ad-interim payment.

3. (1) Notwithstanding anything contained in sub-sections (1), (3) and (4) of section 6 of the East Bengal State Acquisition and Tenancy Act, 1950 (hereinafter referred to as the said Act), a rent-receiver, whose interests in any estate, *taluk*, tenure, holding or tenancy or part thereof, not held under *wakf*, *wakf-al-aulad*, *debutter* or any other trust, have been acquired under sub-section (1) of section 3 of the said Act after the 1st day of April, 1956, shall, with effect from the date of such acquisition, be entitled to receive annually, in cash, in respect of such interests, at such time and in such manner as may be prescribed, an *ad-interim* payment at the rate of one-sixth of the net income calculated according to the provisions in sub-section (2).

(2) For the purposes of sub-section (1), the net income of a rent-receiver from any estate, *taluk*, tenure, holding or tenancy or part thereof shall be calculated by deducting from the gross assets, consisting of the aggregate of the rents and cesses which were payable to such rent-receiver by his immediately subordinate tenants in such estate, *taluk*, tenure, holding, tenancy or part thereof for the agricultural year immediately preceding the date of acquisition, the following, namely:—

(a) the sums which were or are calculated as payable by such rent-receiver for such year as land revenue or rent and cesses to the Provincial Government or to his immediate landlord, as the case may be, in respect of such estate, *taluk*, tenure, holding, tenancy or part thereof;

(b) the sums which were or are calculated as payable by such rent-receiver in respect of such assets for such year as taxes under the Bengal Agricultural Income-tax Act, 1944 and the Income-tax Act, 1922;

Ben. Act.
IV of
1944.
Act XI of
1922.

(Sections 4—6.)

(c) the average annual expenditure, if any, incurred by such rent-receiver on account of maintenance of any irrigation or protective works in such estate, *taluk*, tenure, holding, tenancy, or part thereof; and

(d) collection charges not exceeding twenty *per centum* of the gross assets.

(3) In calculating the amounts of deduction under sub-section (2), the Revenue-officer shall be guided by such rules as may be made in this behalf by the Provincial Government.

4. (1) For the purpose of calculating the net income under section 3, the Revenue-officer shall publish a proclamation in the prescribed manner in every village requiring the rent-receivers concerned to furnish, within sixty days from the date of publication of the proclamation or within such further time as may be allowed by the Revenue-officer on application, statements in the prescribed forms showing therein their gross assets and deductible amounts as referred to in sub-section (2) of section 3 and such other particulars as may be prescribed.

Service of
notice to
furnish state-
ments.

(2) The net income shall be calculated by the Revenue-officer after considering the returns furnished under sub-section (1) and making such enquiry as he thinks fit.

(3) The submission of the statements required under sub-section (1) shall be the condition precedent to the making of *ad-interim* payments under section 3.

5. Any person aggrieved by an order of the Revenue-officer determining the amount of any *ad-interim* payment under section 3 may, within a prescribed period and in the prescribed manner, present an appeal in writing to a prescribed superior Revenue Authority, and the decision of such Authority and also, subject only to such decision an order of the Revenue-officer passed under that section shall be final.

Appeal.

6. Notwithstanding anything contained in the Code of Civil Procedure, 1908, and the Bengal Public Demands Recovery Act, 1913, any amount payable to a rent-receiver under section 3 shall not be liable to attachment in execution of any decree or order of a Civil Court or of a certificate signed under the Bengal Public Demands Recovery Act, 1913, other than a decree or certificate for the recovery of arrears of revenue, rent or cesses due in respect of the interests to which such payment relates.

Exemption
of *ad-in-
terim* pay-
ment from
attachment.

Act V
of 1908.
Ben. Act
III of
1913.

Ben. Act
III of
1913.

(Sections 7—10.)

Ceasing of
ad-interim
payments
and adjust-
ment thereof.

7. With effect from the 1st day of the agricultural year next following the date of publication in the *Official Gazette* of a notification under sub-section (2) of section 43 of the said Act, declaring that a Compensation Assessment-roll has been finally published, the *ad-interim* payment under section 3 in respect of the interest for which compensation has been assessed in such roll shall cease; and the total amount of *ad-interim* payments made under section 3 in respect of any such interests, less an amount calculated at the rate of three *per centum per annum* on the amount of compensation assessed for such interests in such roll from the date of acquisition of such interests under sub-section (1) of section 3 of the said Act till the last day of the agricultural year in which such notification is so published, shall be deducted from the amount of such compensation before proceeding to make payment of such compensation under sub-section (1) of section 58 of the said Act.

Option.

8. Nothing in this Act shall apply to a rent-receiver who elects in writing to the Settlement Officer of the District concerned within three months from the date of promulgation of the East Pakistan State Acquisition (*Ad-interim* Payment) Ordinance, 1957 to receive *ad-interim* payment under the provision of sub-section (1) of section 6 of the said Act.

E. P. Ord.
No. XVI
of 1957.

Power to
make rules.

9. The Provincial Government may make rules for carrying out the purposes of this Act.

Repeal and
saving.

10. (1) The East Pakistan State Acquisition (*Ad-interim* Payment) Ordinance, 1957 is hereby repealed.

E. P. Ord.
No. XVI
of 1957.

(2) Any rules made, any orders passed, any action taken, anything done or any proceedings commenced under any provision of the said Ordinance shall continue in force and be deemed to have been made, passed, taken, done or commenced, as the case may be, under the corresponding provision of this Act, as if this Act had come into force on the date of commencement of that Ordinance.

East Pakistan Act XXXVI of 1957.

THE CODE OF CRIMINAL PROCEDURE (EAST PAKISTAN AMENDMENT) ACT, 1957¹.

[11th November, 1957.]

An Act to provide for the separation of judicial and executive functions in the Province of East Pakistan.

Act V of 1898. WHEREAS it is expedient to provide for the separation of the judicial and executive functions of the Magistrates in the Province and to that end to amend the Code of Criminal Procedure, 1898, in its application to East Pakistan ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Code of Criminal Procedure (East Pakistan Amendment) Act, 1957. Short title, extent and commencement.

(2) It extends to the whole of East Pakistan.

(3) It shall come into force in such areas and on such dates as the Provincial Government may, by notification in the *Official Gazette*, specify in this behalf.

Act V of 1898. 2. The Code of Criminal Procedure, 1898 (hereinafter referred to as the said Code), in its application to East Pakistan, shall be amended in the manner hereinafter provided. Amendment of Act V of 1898.

3. For section 6 of the said Code, the following shall be substituted, namely :— Amendment of section 6 of Act V of 1898.

“Classes of Criminal Courts.

6. Besides the High Court and the Courts constituted under any law other than this Code for the time being in force, there shall be two classes of Criminal Courts in East Pakistan, namely :—

I. Courts of Sessions, and

II. Courts of Magistrates.”

4. After section 6 of the said Code, the following shall be inserted, namely :— Insertion of new section 6A to Act V of 1898.

“AA.—Classes of Magistrates.

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 13th March, 1957 Pt IVP. 348; for Proceedings in the Assembly, see the proceedings of the meetings of the East Pakistan Legislative Assembly held on the 14th March, 1957.

(Sections 4—8.)

Classes of
Magistrates.

6A. There shall be the following classes of Magistrates,
namely :—

I. Judicial Magistrates—

- (1) Magistrates of the first class.
- (2) Magistrates of the second class.
- (3) Magistrates of the third class.

II. Executive Magistrates—

- (1) District Magistrates.
- (2) Additional District Magistrates.
- (3) Subdivisional Magistrates.
- (4) Special Executive Magistrates."

Amendment
of section
10 of Act
V of 1898.

5. In section 10 of the said Code,—

- (a) in sub-section (1), the words and comma "Magistrate of the first class, who shall be called the" shall be *omitted* ;
- (b) in sub-section (2), the words "any Magistrate of the first class to be" shall be *omitted* ; and
- (c) sub-section (3) shall be *omitted*.

Amendment
of section
12 of Act
V of 1898.

6. In section 12 of the said Code,—

- (i) in sub-section (1),—
 - (a) the words "besides the District Magistrate" shall be *omitted*; and
 - (b) the words and comma "the Provincial Government or the District Magistrate, subject to the control of the Provincial Government" shall be *omitted*; and
- (ii) for the marginal notes to the said section, the following shall be *substituted*, namely :—
"Judicial Magistrates."

Amendment
of section
13 of Act V
of 1898.

7. In sub-section (1) of section 13 of the said Code, the words "of the first or second class" shall be *omitted*.

Amendment
of section
14 of Act V
of 1898.

8. For section 14 of the said Code, the following shall be *substituted*, namely :—

"Special
Judicial
Magistrates.

14. (1) The Provincial Government may, in consultation with the High Court, confer upon any person all or any of the powers conferred or conferable by or under this Code on a Judicial Magistrate

(Sections 9—11.)

in respect to particular cases or to a particular class or particular classes of cases, or in regard to cases generally in any local area. Such Magistrates shall be called Special Judicial Magistrates and shall be appointed for such term as the Provincial Government may, in consultation with the High Court, by general or special order, direct.

- (2) The Provincial Government may also appoint Executive Magistrates for particular areas or for performance of particular functions and confer upon them such powers as it deems fit. Such Magistrates shall be called Special Executive Magistrates and shall be appointed for such term as the Provincial Government may, by general or special order, direct :

Special
Executive
Magistrates.

Provided that no powers shall be conferred under this sub-section on any Police Officer below the grade of Assistant Superintendent and no power shall be conferred on a Police Officer except so far as may be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought before a Magistrate and for performance by the officer of any other duties imposed upon him by any law for the time being in force.

- (3) The Provincial Government may delegate with such limitation as it thinks fit to any officer under its control the powers conferred under sub-section (2)."

Benches of Judicial Magistrates. 9. In section 15 of the said Code, in sub-section (1), for the word "Magistrates", the words "Judicial Magistrates" shall be substituted. Amendment of section 15 of Act V of 1898.

10. In section 16 of the said Code, the words and commas "or, subject to the control of the Provincial Government, the District Magistrate may," shall be omitted. Amendment of section 16 of Act V of 1898.

11. In section 17 of the said Code,—

Amendment
of section 17
of Act V
of 1898.

(i) in sub-section (1),—

(a) for the words "All Magistrates", the words "All Judicial Magistrates" shall be substituted ;

(b) the figures "13" shall be omitted ;

(Sections 12, 13.)

(c) for the words "the District Magistrate", the words "Sessions Judge" shall be *substituted* ; and

(d) for the semi-colon and the word "and" at the end of the said sub-section, a full stop shall be *substituted* ;

(ii) sub-section (2) shall be *omitted* ;

(iii) in sub-section (4), the commas and words "or, if there be no Additional or Assistant Judge, by the District Magistrate," and the words "or Magistrate" shall be *omitted* ;

(iv) sub-section (5) shall be *omitted* ; and

(v) in the marginal note to the said section, for the word "Magistrates", the words "Judicial Magistrates" and for the words "District Magistrate", the words "Sessions Judge" shall be *substituted*.

Insertion of
new sections
17A and 17B
to Act V
of 1898.

12. After section 17 of the said Code, the following new sections shall be *inserted*, namely :—

"Subordi-
nation of
Executive
Magistrates
to the
District
Magistrates.

17A. All Executive Magistrates appointed under sections 13 and 14 shall be subordinate to the District Magistrate.

Inferior
Criminal
Courts.

17B. The Court of Sessions and Courts of Magistrates shall be Criminal Courts inferior to the High Court."

Amendment
of section
29B of Act V
of 1898.

13. In section 29B of the said Code,—

(i) the words "by a District Magistrate or" shall be *omitted* ; and

(ii) for the words "by any Magistrate specially empowered by the Provincial Government", the words "by any Judicial Magistrate specially empowered by the Provincial Government in consultation with the High Court" shall be *substituted*.

(Sections 14—20.)

14. Sections 30 and 34 of the said Code shall be *omitted*.

Omission of sections 30 and 34 of Act V of 1898.

15. In proviso (b) to sub-section (2) of section 35 of the said Code, the words and brackets "(other than a Magistrate acting under section 34)" shall be *omitted*.

Amendment of section 35 of Act V of 1898.

16. In section 36 of the said Code, for the words and commas "District Magistrates, Subdivisional Magistrates and Magistrates of the first, second and third classes", the words "Judicial and Executive Magistrates" shall be *substituted*.

Amendment of section 36 of Act V of 1898.

17. For section 37 of the said Code, the following shall be *substituted*, namely :—

Amendment of section 37 of Act V of 1898.

"Addi-
tional
powers
confer-
able on
Magis-
trates.

37. In addition to his ordinary powers, the Provin-
cial Government may invest any Magistrate with
the powers as specified in the Fourth Schedule :

Provided that in the case of Judicial Magistrates such
powers shall be conferred in consultation with
the High Court :

Provided further that the Provincial Government may
authorise the District Magistrate to invest any
Magistrate subordinate to him with any of the
powers specified in Part II of the Fourth Schedule."

18. In section 41 of the said Code, for the full stop at the end of sub-section (1), a colon shall be *substituted* and *thereafter* the following proviso shall be *added*, namely :—

Amendment of section 41 of Act V of 1898.

"Provided that in the case of Judicial Magistrates the
withdrawal of such powers shall be made in
consultation with the High Court."

19. In section 57 of the said Code, in sub-section (2), for the words "before a Magistrate if so required", the words and comma "before a Magistrate having jurisdic-
tion, if so required" shall be *substituted*.

Amendment of section 57 of Act V of 1898.

20. In section 63 of the said Code, for the words "special order of a Magistrate", the words "special order of a Magistrate having jurisdiction" shall be *substituted*.

Amendment of section 63 of Act V of 1898.

(Sections 21—30.)

- Amendment of section 88 of Act V of 1898. 21. In section 88 of the said Code, in sub-section (6C), in the proviso, the words "of the first or second class" and the comma occurring thereafter shall be *omitted*.
- Amendment of section 98 of Act V of 1898. 22. In section 98 of the said Code, in sub-section (1),—
(a) the words and comma "or Magistrate of the first class," occurring in the first paragraph, shall be *omitted* ; and
(b) *for* the word "Magistrate" thrice occurring in clauses (d) and (e) of the said sub-section, the words "Judicial Magistrate" shall be *substituted*.
- Amendment of section 100 of Act V of 1898. 23. In section 100 of the said Code,—
(a) the words "or Subdivisional Magistrate" shall be *omitted* ; and
(b) *for* the word "Magistrate", the words "Judicial Magistrate" shall be *substituted*.
- Amendment of section 106 of Act V of 1898. 24. In section 106 of the said Code, in sub-section (1), the words and comma "a District Magistrate, a Sub-divisional Magistrate or" shall be *omitted*.
- Amendment of section 107 of Act V of 1898. 25. In section 107 of the said Code, in sub-section (1), *for* the words "Magistrate of the first class", the words "an Executive Magistrate specially empowered in this behalf by the Provincial Government or District Magistrate" shall be *substituted*.
- Amendment of section 108 of Act V of 1898. 26. In section 108 of the said Code, *for* the words "Magistrate of the first class specially empowered by the Provincial Government in this behalf", the words "Sub-divisional Magistrate" shall be *substituted*.
- Amendment of section 109 of Act V of 1898. 27. In section 109 of the said Code, the words "or Magistrate of the first class" shall be *omitted*.
- Amendment of section 110 of Act V of 1898. 28. In section 110 of the said Code, the words "or a Magistrate of the first class specially empowered in this behalf by the Provincial Government" shall be *omitted*.
- Amendment of section 126 of Act V of 1898. 29. In section 126 of the said Code, in sub-section (1), the words "or Magistrate of the first class" shall be *omitted*.
- Amendment of section 127 of Act V of 1898. 30. In section 127 of the said Code, in sub-section (1), *for* the word "Magistrate", the words "Executive Magistrate" shall be *substituted*.

The Code of Criminal Procedure (East Pakistan 667
Amendment) Act, 1957.
of 1957.]

(Sections 31—39.)

31. In section 128 of the said Code, *for* the word "Magistrate", the words "Executive Magistrate" shall be *substituted*. Amendment of section 128 of Act V of 1898.
32. In section 130 of the said Code, in sub-section (I), *for* the word "Magistrate" twice occurring, the words "Executive Magistrate" shall be *substituted*. Amendment of section 130 of Act V of 1898.
33. In section 131 of the said Code, *for* the word "Magistrate" thrice occurring, the words "Executive Magistrate" shall be *substituted*. Amendment of section 131 of Act V of 1898.
34. In section 133 of the said Code, in sub-section (I),—Amendment of section 133 of Act V of 1898.
 - (a) the words "or a Magistrate of the first class" shall be *omitted* ; and
 - (b) in the last paragraph, *for* the words "Magistrate of the first or second class", the words "Executive Magistrate" shall be *substituted*.
35. In section 143 of the said Code, *for* the words "any other Magistrate", the words "any other Executive Magistrate" shall be *substituted*. Amendment of section 143 of Act V of 1898.
36. In section 144 of the said Code, in sub-section (I), *for* the words and brackets "or of any other Magistrate (not being the Magistrate of the third class)", the words "or of any other Executive Magistrate" shall be *substituted*. Amendment of section 144 of Act V of 1898.
37. In section 145 of the said Code, in sub-section (I), *for* the words "or Magistrate of the first class", the words "or any other Executive Magistrate specially empowered by the Provincial Government in this behalf" shall be *substituted*. Amendment of section 145 of Act V of 1898.
38. In section 147 of the said Code, in sub-section (I), *for* the words "Magistrate of the first class", the words "any other Executive Magistrate specially empowered by the Provincial Government in this behalf" shall be *substituted*. Amendment of section 147 of Act V of 1898.
39. In section 167 of the said Code,—Amendment of section 167 of Act V of 1898.
 - (i) in sub-section (I), *for* the words "the nearest Magistrate", the words "the nearest Judicial Magistrate" shall be *substituted* ; and

(Sections 40—44.)

(ii) *for* sub-section (4), the following shall be *substituted*, namely :—

“(4) Any Magistrate giving such order shall forward a copy of his order, with his reasons for making it, to the Sessions Judge.”

Amendment of section 170 of Act V of 1898. 40. In section 170 of the said Code, sub-section (3) shall be *omitted*.

Amendment of section 174 of Act V of 1898. 41. In section 174 of the said Code, in sub-section (5), *for* the words “or Magistrate of the first class and any Magistrate”, the words “or any Executive Magistrate” shall be *substituted*.

Amendment of section 186 of Act V of 1898. 42. In section 186 of the said Code, in sub-section (1), *for* the words and commas “a District Magistrate, a Subdivisional Magistrate, or, if he is specially empowered in this behalf by the Provincial Government, a Magistrate of the first class”, the words “a Magistrate of the first class specially empowered in this behalf by the Provincial Government in consultation with the High Court” shall be *substituted*.

Amendment of section 187 of Act V of 1898. 43. In section 187 of the said Code, in sub-section (1), *for* the words and comma “by a Magistrate other than a District Magistrate, such Magistrate shall send the person arrested to the District or Subdivisional Magistrate”, the words “the Magistrate issuing the warrant shall send the person arrested to the Sessions Judge” shall be *substituted*.

Amendment of section 190 of Act V of 1898. 44. In section 190 of the said Code,—

(a) in sub-section (1), *for* the words and comma “any District Magistrate or Subdivisional Magistrate, and any other Magistrate specially empowered in this behalf”, the words “any Judicial Magistrate specially empowered in this behalf by the Provincial Government in consultation with the High Court” shall be *substituted*.

(b) in sub-section (2), the words “or the District Magistrate subject to the general or special orders of the Provincial Government” shall be *omitted*; and

(c) in sub-section (3), *after* the words “The Provincial Government may”, the words “in consultation with the High Court” shall be *inserted*.

(Sections 45—51.)

45. In section 192 of the said Code,—
- Amendment
of section 192
of Act V of
1898.
- (a) *for* sub-section (1), the following shall be *substituted*, namely:—
- “(1) Any Magistrate of the first class specially empowered in this behalf by the Provincial Government may transfer any case, of which he has taken cognizance, for enquiry or trial to such Judicial Magistrates as may be specified by the Sessions Judge.”; and
- (b) in sub-section (2), *for* the words “Any District Magistrate”, the words “A Sessions Judge” and *for* the words “in his district”, the words “in the Sessions Division” shall be *substituted*.
46. In section 206 of the said Code, in sub-section (1), the words and comma “District Magistrate, Subdivisional Magistrate or” shall be *omitted*.
- Amendment
of section 206
of Act V of
1898.
47. In section 249 of the said Code, *for* the words and comma “with the previous sanction of the District Magistrate, any other Magistrate”, the words and comma “with the previous sanction of the Sessions Judge, any other Judicial Magistrate” shall be *substituted*.
- Amendment
of section 249
of Act V of
1898.
48. In section 260 of the said Code, in sub-section (1), clause (a) shall be *omitted*.
- Amendment
of section 260
of Act V of
1898.
49. In section 337 of the said Code, in sub-section (1), in the proviso, the words “other than the District Magistrate” shall be *deleted* and *for* the words “sanction of the District Magistrate”, the words “sanction of the Sessions Judge” shall be *substituted*.
- Amendment
of section 337
of Act V of
1898.
50. In section 346 of the said Code, in sub-section (1), *after* the words “the District Magistrate”, the words and commas “or the Sessions Judge, as the case may be,” shall be *inserted*.
- Amendment
of section 346
of Act V of
1898.
51. In section 349 of the said Code,—
- Amendment
of section 349
of Act V of
1898.
- (a) in sub-section (1), *for* the words “to the District Magistrate or Subdivisional Magistrate to whom he is subordinate”, the words “to a Magistrate of the first class specially empowered in this behalf by the Provincial Government” shall be *substituted*; and

(Sections 52—57.)

- (b) in sub-section (1A), for the words “District Magistrate or Subdivisional Magistrate”, the words, brackets and figure “Magistrate empowered under sub-section (1)” shall be *substituted*.

Amendment
of section
350 of Act
V of 1898.

52. In section 350 of the said Code, in proviso (b) to sub-section (1),—

- (a) for the words and comma “Magistrates subordinate to the District Magistrate, the District Magistrate”, the words and comma “Magistrate, Sessions Judge” shall be *substituted*; and
- (b) the words “or District Magistrate” shall be *omitted*.

Amendment
of section
380 of Act
V of 1898.

53. In section 380 of the said Code, the words “or a Subdivisional Magistrate” shall be *omitted*.

Amendment
of section
406 of Act
V of 1898.

54. In section 406 of the said Code,—

- (a) the first proviso shall be *omitted*; and
- (b) in the second proviso, the word “further” shall be *omitted*.

Amendment
of section
406A of Act
V of 1898.

55. For section 406A of the said Code, the following shall be *substituted*, namely:—

“Appeal
from order
refusing to
accept or
rejecting a
surety.

406A. Any person aggrieved by an order refusing to accept or rejecting a surety under section 122 may appeal against such order to the Court of Sessions.”

Omission of
section 407
of Act V of
1898.

56. Section 407 of the said Code shall be *omitted*.

Amendment
of section
408 of Act
V of 1898.

57. In section 408 of the said Code,—

- (a) for the words “District Magistrate or other Magistrate of the first class”, the words “Judicial Magistrate” shall be *substituted*; and
- (b) in the proviso (b), the words and figures “or a Magistrate specially empowered under section 30” shall be *omitted*.

(Sections 58—61.)

58. For section 409 of the said Code, the following shall be *substituted*, namely:—

Amendment
of section
409 of Act
V of 1898.

“Appeal
to
Court of
Sessions
how
heard.

409. Subject to the provisions of this section, an appeal to the Court of Sessions or Sessions Judge shall be heard by the Sessions Judge or by an Additional Sessions Judge or an Assistant Sessions Judge:

Provided that an Additional Sessions Judge shall hear only such appeal as the Provincial Government may, by general or special order, direct or as the Sessions Judge of the Division may make over to him:

Provided further that no such appeal shall be heard by an Assistant Sessions Judge unless the appeal is of a person convicted on a trial held by any Magistrate of second class or third class.”

59. In section 413 of the said Code, for the words “District Magistrate or other”, the letter “a” shall be *substituted*.

Amendment
of section
413 of Act
V of 1898.

60. In section 428 of the said Code, in sub-section (1), for the words “by a Magistrate”, the words “by a Judicial Magistrate” and for the words “a Magistrate”, the words “a Judicial Magistrate” shall be *substituted*.

Amendment
of section
428 of Act
V of 1898.

61. In section 435 of the said Code,—

Amendment
of section
435 of Act
V of 1898.

(a) in sub-section (1), the words and commas “or District Magistrate, or any Subdivisional Magistrate empowered by the Provincial Government in this behalf”, and the explanation to the said sub-section shall be *omitted*; and

(b) for sub-sections (2) and (4), the following shall be *substituted*, namely:—

“(2) The District Magistrate, or the Subdivisional Magistrate empowered by the Provincial Government in this behalf, may call for and examine the records of any proceedings before any subordinate Executive Magistrate for the purpose of satisfying himself as to the correctness, legality or propriety of any order recorded or passed and as to the regularity of any proceeding of such subordinate Magistrate and may when calling for such record direct that the execution of any order be suspended, and if the person is in confinement, that he may be released on bail on his own bond pending the examination of the record.

(Sections 62—65.)

(3) If any Subdivisional Magistrate acting under sub-section (2) considers that any such proceeding or order is illegal or improper, he shall forward the record with such remarks thereon as he thinks fit to the District Magistrate.

(4) The High Court may call for and examine the record of any proceeding under sections 143, 144 or 145 notwithstanding that such proceeding was before an Executive Magistrate”.

Amendment
of section
436 of Act
V of 1898.

62. In section 436 of the said Code,—

(a) the said section shall be *re-numbered* as sub-section (1) of that section;

(b) in sub-section (1) so *re-numbered*, for the words and commas “the District Magistrate by himself or by any of the Magistrates subordinate to him to make, and the District Magistrate may himself make, or direct any subordinate Magistrate to make”, the words “the Judicial Magistrates to make” shall be *substituted*; and

(c) the following new sub-section shall be *added*, name'y:—

“(2) On examining any record under section 435 or otherwise, the District Magistrate may direct any Subdivisional Magistrate or any other Executive Magistrate subordinate to him to make, and the subordinate Magistrate may himself make or direct any subordinate Magistrate to make further enquiry into any proceeding :

Provided that no District Magistrate shall make any direction under this section for further enquiry into the case of any person unless such person has had an opportunity of showing cause why such direction should not be made.”

Amendment
of section 437
of Act V of
1898.

63. In section 437 of the said Code, the words “or District Magistrate” and the words “or Magistrate” wherever they occur, shall be *omitted*.

Amendment
of section 438
of Act V of
1898.

64. In section 438 of the said Code, the words “or District Magistrate” shall be *omitted*.

Amendment
of section 479
of Act V of
1898.

65. In section 479 of the said Code, for the words “the District Magistrate or other”, the word “any” shall be *substituted*.

of 1957.]

(Sections 66—71.)

66. In section 488 of the said Code, in sub-section (1), the words and comma "the District Magistrate, a Sub-divisional Magistrate or" shall be *omitted*. Amendment of section 488 of Act V of 1898.

67. In section 506 of the said Code,— Amendment of section 506 of Act V of 1898.

(a) for the words "such Magistrate shall apply to the District Magistrate", the words and commas "such Magistrate, if he is Judicial Magistrate, shall apply to the Sessions Judge and if he is an Executive Magistrate, shall apply to the District Magistrate" shall be *substituted*; and

(b) for the words "and the District Magistrate", the words and comma "and the Sessions Judge or the District Magistrate, as the case may be" shall be *substituted*.

68. For section 515 of the said Code, the following shall be *substituted*, namely:— Amendment of section 515 of Act V of 1898.

Appeal from and revision of orders under section 514.

515. All orders passed under section 514, by an Executive Magistrate other than a District Magistrate shall be appealable to the District Magistrate and by a Judicial Magistrate to the Sessions Judge and if no appeal is made against such orders, they may be revised in the case of orders passed by Executive Magistrates by the District Magistrate and in the case of orders passed by Judicial Magistrates by the Sessions Judge."

69. In section 524 of the said Code, in sub-section (1), for the words "of a Magistrate of the first class", the words "of an Executive Magistrate" shall be *substituted*. Amendment of section 524 of Act V of 1898.

70. In section 528 of the said Code, in sub-section (2), for the words and commas "Any District Magistrate or Subdivisional Magistrate may withdraw any case from, or recall any case which he has made over to," the words "Any Sessions Judge may withdraw any case from" shall be *substituted*. Amendment of section 528 of Act V of 1898.

71. In section 559 of the said Code, in sub-section (2), after the words "the District Magistrate", the words and commas "in the case of Executive Magistrates, and the Sessions Judge in the case of Judicial Magistrates," shall be *inserted*. Amendment of section 559 of Act V of 1898.

(Sections 72—76.)

Omission of
section 561
of Act V of
1898.

72. Section 561 of the said Code shall be *omitted*.

Amendment
of section 562
of Act V of
1898.

73. In section 562 of the said Code, in the proviso to sub-section (I), the words "or Subdivisional Magistrate" shall be *omitted*.

Amendment
of section 565
of Act V of
1898.

74. In section 565 of the said Code, in sub-section (I), the words and comma "District Magistrate, Subdivisional Magistrate" shall be *omitted*.

Amendment
of Schedule
II to Act V
of 1898.

75. In Schedule II to the said Code, in column 8,—

- (a) *for* the words "Any Magistrate", wherever they occur, the words "Any Judicial Magistrate" shall be *substituted*;
- (b) in the entry relating to section 124A, the words "or District Magistrate" shall be *deleted* and *after* the words "in that behalf", the words "in consultation with the High Court" shall be *inserted*; and
- (c) in the entry relating to section 376, *for* the words "District Magistrate", the words "Magistrate of the first class" shall be *substituted*.

Amendment
of Schedule
III to Act V
of 1898.

76. In Schedule III to the said Code,—

- (a) in Part I under the heading "Ordinary Powers of a Magistrate of the Third Class", in item (17), *for* the words "District Magistrate", the words "Sessions Judge" shall be *substituted*;
- (b) in Part III under the heading "Ordinary Powers of a Magistrate of the First Class",—
 - (i) *after* item (I), the following new item shall be *inserted*, namely:—

"(1a) Power to direct warrant to landlords under section 78."; and
 - (ii) items (2), (4), (5), (6), (6a), (7) and 7(b) shall be *omitted*;
- (c) in Part IV under the heading "Ordinary Powers of a Subdivisional Magistrate appointed under section 13",—
 - (i) item (1) shall be *omitted*;
 - (ii) *after* item (2), the following new items shall be *inserted*, namely:—

"(2a) Power to issue search warrant otherwise than in course of an enquiry, section 98.

(Section 77 and the Schedule IV.)

(2b) Power to issue search warrant for discovery of persons wrongfully confined, section 100.

(2c) Power to require security to keep peace, section 107.

(2d) Power to require security for good behaviour, section 109.”;

~~Under~~ **Per item** (3), the following new items shall be namely:—

to discharge sureties, section 126A.

to make orders as to local nuisances, section 133.”;

(6), the following new item shall be namely:—

“(6a) Power to make orders, etc., in possession cases, sections 145, 146 and 147.”;

(v) item (8) shall be omitted;

(vi) for item (9), the following shall be substituted, namely:—

“(9) Power to hold inquests, section 174.”; and

(vii) items (11) to (16) (both inclusive), (18) and (19) shall be omitted; and

(d) in Part V under the heading “Ordinary Powers of a District Magistrate”, items (1a), (7), (8), (12) and (13) shall be omitted.

77. For Schedule IV to the said Code, the following new Schedule shall be substituted, namely:—

Amendment
of Schedule
IV to Act V
of 1898.

“SCHEDULE IV.

(See section 37.)

Additional Powers with which Magistrates may be invested.

PART I—

Powers with which a Magistrate of First Class may be invested by the Provincial Government.

- (1) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186.
- (2) Power to take cognizance of offences upon complaint, section 190.
- (3) Power to take cognizance of offences upon Police report, section 190.

(The Schedule).

- (4) Power to take cognizance of offences without complaint, section 190.
- (5) Power to transfer cases, section 192.
- (6) Power to try summarily, section 260.
- (7) Power to pass sentence on proceedings recorded by Magistrate of the second and third class, section 349.
- (8) Power to try cases under section 124A of ~~the~~ Pakistan Penal Code.

*Powers with which a Magistrate of the
invested by the Provincial*

- (1) Power to record statements and ing a
Police investigation, section 164.
- (2) Power to authorise detention of a person in the custody of the Police during a Police investigation, section 164.
- (3) Power to take cognizance of offences upon complaint, section 190.
- (4) Power to take cognizance of offences upon Police report, section 190.
- (5) Power to take cognizance of offences without complaint, section 190.
- (6) Power to commit for trial, section 206.
- (7) Power to make orders as to first offenders, section 562.

*Powers with which a Magistrate of the Third Class may be
invested by the Provincial Government.*

- (1) Power to take cognizance of offences upon complaint, section 190.
- (2) Power to take cognizance of offences upon Police report, section 190.

PART II—

*Power with which a Subdivisional Magistrate may be invested
by the Provincial Government.*

- (1) Power to call for records, sub-section (2) of section 435.

*Powers with which any of the Executive Magistrates may be
invested by the Provincial Government.*

- (1) Power to make orders prohibiting repetition of nuisances, section 143.
- (2) Power to make orders under section 144.

(The Schedule.)

- (3) Power to make orders, etc., in possession cases, sections 145 and 147.
- (4) Power to hold inquests, section 174.
- (5) Power to sell property alleged or suspected to have been stolen, etc., section 524.

*Powers with which any Executive Magistrate may be invested
by the District Magistrate.*

- (1) Power to make orders prohibiting repetition of nuisances, section 143.
- (2) Power to make orders under section 144.
- (3) Power to hold inquests, section 174."

78. Any case which, immediately before the commencement of the Act, is pending before any Magistrate shall, as from the date of commencement of this Act, stand transferred to the Sessions Judge within whose territorial jurisdiction such Magistrate is posted and such Sessions Judge may transfer such cases to such Judicial Magistrates, as he thinks fit, for enquiry and trial.

Temporary
and trans-
itory provi-
sion.

East Pakistan Act XXXVII of 1957.¹

THE EAST PAKISTAN MINIMUM WAGES ACT, 1957.¹

[12th November, 1957.]

An Act to regulate the minimum wages of workmen employed in the industries in East Pakistan.

WHEREAS it is expedient to provide for regulation of the minimum wages of workmen employed in the industries in East Pakistan;

It is hereby enacted as follows :—

1. (1) This Act may be called the East Pakistan Minimum Wages Act, 1957. Short title, extent and commencement.

(2) It extends to the whole of East Pakistan.

(3) It shall come into force at once.

2. The Act shall apply in relation to the industries listed in the Schedule to this Act and to such other industries as the Provincial Government may, by notification in the *Official Gazette*, add to the Schedule: Application of the Act

Provided that in respect of industries added to the Schedule by the Provincial Government, any such industry may in like manner be deleted from the list.

3. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(a) "Board" means the East Pakistan Minimum Wages Board established under section 4 ;

(b) "employer" means a person, a body of persons, or a company, owning or having charge of an industry or a unit thereof, including an agent or manager of, and any other person acting on behalf of, such person in the general management or control thereof ;

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 23rd September, 1957, Pt. IVA, p. 1946 ; for proceedings in the Assembly, see the proceedings of the meetings of the East Pakistan Legislative Assembly held on the 24th and 28th September, 1957.

The Act was extended to the Chittagong Hill-tracts, vide Notification No. 301Lab., dated the 14th February, 1958, published in the *Dacca Gazette Extraordinary*, dated the 20th February, 1958, Pt. I, p. 687.

[E. P. Act XXXVII]

(Sections 4, 5.)

(c) "industry" means—

- (i) an industry as defined in clause (j) of section 2 XIV of the Industrial Disputes Act, 1947 ; or 1947.
- (ii) a factory as defined in clause (j) of section 2 XXV of the Factories Act, 1934 ; or 1934.
- (iii) a plantation as defined in clause (iii) of section 2 IV of the Payment of Wages Act, 1936 ; 1936.
- (d) "prescribed" means prescribed by rules made under this Act ;
- (e) "wages" shall have the same meaning as defined IV of in clause (vi) of section 2 of the Payment of 1936. Wages Act, 1936; and
- (f) "workman" shall have the same meaning as XIV of defined in clause (s) of section 2 of the Industrial 1947. Disputes Act, 1947.

Establish-
ment of a
Board and
its functions.

4. (1) The Provincial Government may constitute one or more Boards to be called the East Pakistan Minimum Wages Board.

(2) The Board shall, on a reference being made to it by the Provincial Government, enquire into, and after full consultation with the representatives of the employers and workmen, recommend the minimum wages for an industry or units thereof referred to it by the Provincial Government.

(3) The Board may recommend to the Provincial Government—

- (i) to fix minimum rates of wages for time work ;
- (ii) to fix minimum rates of wages for piece work ;
- (iii) to fix minimum rates of wages for time work, to apply in the case of persons employed on piece work, for the purpose of securing to such persons a minimum wage on time work basis.

Constitution
of the Board.

5. The Board shall consist of—

- (i) two persons representing employers and two persons representing workmen, appointed by the Provincial Government ; and
- (ii) two independent persons of whom one shall be the Chairman of the Board and another shall be an expert not in any way connected with any industry and not associated with any workers' organisation to be appointed by the Provincial Government.

of 1957.]

(Sections 6—11.)

6. The Board may appoint one or more Committees for an industry or a unit thereof consisting of equal number of members representing the employer and workmen and one or more independent members, but not exceeding one-third of the total number of members in the Committee, and may refer to any such Committee for report and recommendations in any matter which the Board may decide to refer. The Committee shall have the same powers for the purpose of investigation as the Board itself.

Constitution of Committees and their powers.

7. Every meeting of the Board shall be presided over by the Chairman, if present, and if he is absent, such member of the Board as may be elected by the members present.

Meeting of the Board.

8. The proceedings of the Board shall not be invalidated due to a vacancy therein or for any defect in the appointment of the Chairman or of any member of the Board.

Formal defects.

9. (1) Save as otherwise expressly provided in this Act, the term of office of a member shall be three years from the date on which his appointment is notified in the *Official Gazette*.

Terms of office of members.

(2) A member of the Board shall, notwithstanding the expiry of the said period of three years, continue to hold office until the appointment of his successor is notified in the *Official Gazette*.

(3) Any person whose term of office expires shall be eligible for re-appointment as a member of the Board.

10. (1) A member of the Board may resign his office by notice in writing to the Provincial Government and his seat shall fall vacant from the date of the acceptance of the resignation by the Provincial Government.

Resignation and cessation of members.

(2) A person (other than the Chairman) shall cease to be a member of the Board if he absents himself from three consecutive meetings thereof without the leave of absence from the Chairman.

11. No person shall be qualified to be appointed as a member of the Board or shall continue as such if he—

Disqualification for office.

(i) is of unsound mind and stands so declared by a competent Court ; or

(ii) is an undischarged insolvent ; or

(iii) is or at any time has been convicted by a competent Court on a charge for an offence involving moral turpitude.

[E. P. Act XXXVII

(Sections 12—18.)

- Removal of member from office.** **12.** If any member of the Board has been, in the opinion of the Provincial Government, guilty of gross misconduct, he may be removed from office by the Provincial Government.
- Filling up of vacancies.** **13.** (1) Vacancies in the office of the members shall be filled in by appointment by the Provincial Government in a manner not affecting the representation of the different interests on the Board.
(2) A member appointed to fill a casual vacancy shall hold office only for the unexpired portion of the term of office of his predecessor.
- Quorum** **14.** Three members of the Board including at least one representative each of the employer and the workmen represented on the Board shall form the quorum for a meeting of the Board.
- Venue of meeting.** **15.** The Chairman of the Board shall convene meetings of the Board by notice in writing to be given to each member at such time and place as the Chairman may direct.
- Allowances** **16.** Members of the Board, other than the Chairman, may be allowed such *honorarium* and allowances as the Provincial Government may determine.
- Power to summon witnesses and compel the production of documents.** **17.** For the purposes of any enquiry under this Act, the Board or any Committee appointed by the Board in this behalf shall have the powers to summon and enforce the attendance of witnesses including the parties interested and to compel the production of documents by the same means and, so far as may be, in the same manner as is provided in the Code of Civil Procedure, V of 1908.
- Action by Government on Board's recommendation.** **18.** (1) On receipt of the recommendation of the Board, the Provincial Government, unless it decides to act under sub-section (2) of this section, shall notify the minimum wages in the industry concerned.
(2) If the Provincial Government consider that the recommendation of the Board is not equitable to the employer or the workmen in the industry, it may, within thirty days of receipt of such a recommendation, remit the matter to the Board for reconsideration together with such data or views, if any, as the Provincial Government may wish to communicate, and the Board shall reconsider the matter and submit a further recommendation; upon receipt of such recommendation, the Provincial Government shall notify the minimum wages in the industry concerned.

of 1957.]

(Sections 19—24.)

19. Subject to the provisions of this Act, if an employer fails to pay to a workman to whom an order under section 18 applies, wages at the minimum rate fixed by the Provincial Government, he shall be liable on conviction to imprisonment not exceeding six months or to pay a fine not exceeding rupees one thousand or with both for each day of default. **Enforcement.**

20. (1) Every employer shall maintain such registers and records giving such particulars of the employees employed by him, the work performed by them, the wages paid to them, the receipts given by them and such other particulars and in such form as may be prescribed. **Maintenance of registers and records.**

(2) Every employer shall keep exhibited in such manner as may be prescribed in the industry where the employees of the industries listed in the Schedule may be employed, notices in the prescribed form containing the prescribed particulars.

(3) The Provincial Government may, by rules made under this Act, provide for the issue of Wage Books or Wages Slips to the employees employed in any industry in respect of which minimum rates of wages have been fixed and prescribe the manner in which the entries shall be made and authenticated in such Wage Books or Wages Slips by the employer or his agent.

21. If any person fails to display any notice or to maintain any register as required under section 20 or under any rule made under this Act, he shall be liable, on summary conviction, to pay a fine not exceeding five hundred rupees. **Penalty for failure to display certain notices.**

22. No Court inferior to that of a Magistrate of the first class shall take cognizance of, or try an offence under, this Act or any rule or order made thereunder. **Cognizance of offences.**

23. No Court shall take cognizance of any offence under this Act or any rule or order made thereunder, except upon complaint made by the Provincial Government or by such person or persons as may be authorised by the Provincial Government in this behalf. **Limitation of prosecution.**

24. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act. **Protection to persons acting under this Act.**

[E. P. Act XXXVII of 1957.]

(Section 25 and Schedule.)

Rule-making
power.

25. The Provincial Government may, subject to the condition of previous publication, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

SCHEDULE.

(Vide, section 2.)

- (1) Inland Water Transport.
- (2) Textiles (Cotton, Wool, Artificial Silk and Jute).
- (3) Sugar.
- (4) Matches.
- (5) Paper.
- (6) Rubber Manufactures.
- (7) Tea.

East Pakistan Act XXXVIII of 1957.

THE EAST PAKISTAN STATE ACQUISITION (BONDS)
ACT, 1957.¹

[23rd November, 1957.]

An Act to make certain provisions in connection with the issue and management of bonds mentioned in sub-section (2) of section 58 of the East Bengal State Acquisition and Tenancy Act, 1950.

E. B. Act
XXVIII
of 1951.

WHEREAS sub-section (2) of section 58 of the East Bengal State Acquisition and Tenancy Act, 1950, provides for payment of compensation either in cash or in bonds or partly in cash and partly in bonds ;

E. B. Act
XXVIII
of 1951.

AND WHEREAS an agreement has been reached between the Provincial Government and the State Bank of Pakistan that the work of issue and management of such bonds and payment of instalments thereunder shall be entrusted to the State Bank of Pakistan ;

AND WHEREAS it is expedient to make certain provisions in connection with the issue and management of such bonds and payment of instalments thereunder and for other matters incidental thereto ;

It is hereby enacted as follows :—

1. (1) This Act may be called the East Pakistan State Acquisition (Bonds) Act, 1957. Short title, extent and commencement.
- (2) It extends to the whole of East Pakistan.
- (3) It shall come into force at once.
2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.
 - (a) “the Act” means the East Bengal State Acquisition and Tenancy Act, 1950 ;

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 12th September, 1957, Pt. IVA, p. 1821 ; for proceedings in the Assembly, see the proceedings of the meetings of the East Pakistan Legislative Assembly held on the 21st and 27th September, 1957.

(Sections 3—6.)

- (b) "Bank" means the Dacca Office of the State Bank of Pakistan as constituted by the State Bank of Pakistan Act, 1956 ; Act XXXVIII of 1956.
- (c) "Bond" means a Bond referred to in sub-section (2) of section 58 of the Act ;
- (d) "management" of bonds includes subdivision, consolidation and renewal of bonds and issue of duplicate bonds ;
- (e) "prescribed" means prescribed by rules made by the Provincial Government under this Act ; and
- (f) "Public Debt Office" means the Public Debt Office of the State Bank of Pakistan at Dacca.

Form and denominations of Bonds and issue and management thereof.

3. The work of issue and management of Bonds and payment of instalments thereunder shall be done by the Bank in accordance with such rules, and the form and denominations of the Bonds shall be such, as may be prescribed.

Discharge of Provincial Government from liabilities.

4. The Provincial Government shall be discharged from all liabilities in respect of a Bond when all the instalments due thereon have been paid or when a duplicate, new or renewed Bond has been issued in its place.

Holding of Bonds in name of public office.

5. (1) In the case of any public office to which the Provincial Government may, by notification in the *Official Gazette*, declare this sub-section to apply, a Bond may be held in the name of the office.

(2) When a Bond is so held, it shall be deemed to be transferred without any or further transfer deed from each holder of the office to the succeeding holder of the office on and from the date on which the latter takes charge of the office.

(3) This section applies as well to an office of which there are two or more joint holders as to an office of which there is a single holder.

Holding of Bonds as trustee or by an Office other than public office.

6. (1) No notice of any trust in respect of any Bond shall be receivable by the Government, nor shall the Government be bound by any such notice even though expressly given, nor shall the Government be regarded as trustee in respect of any Bond.

(2) Without prejudice to the provisions of sub-section (1), the Bank may, as an act of grace and without any liability to the Bank or to the Government, record in its books such directions by the holder of a Bond for the payment of instalments due on a Bond or such other matters relating to a Bond, as the Bank thinks fit.

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(Section 6.)

(3) Bonds may be held by a holder of an office, other than a public office,—

- (a) in his personal name, described in the books of the Public Debt Office and in the Bond as a trustee, whether as a trustee of the trust specified in his application or as a trustee without any such qualification, or
- (b) by the name of his office.

(4) On an application made in writing to the Public Debt Office, in the form required by that Office, by the person in whose name a Bond stands, and on surrender of the Bond, the Public Debt Office may—

- (a) make an entry in their books describing him as a trustee of a specified trust or as a trustee without specification of any trust and issue a Bond in his name described as trustee with or without the specification of the trust, as the case may be, or
- (b) issue a Bond to him by the name of his office and make entry in its books describing him as the holder of the Bond by the name of his office, according to the applicant's request :

Provided that—

- (i) the request is in conformity with the provisions of sub-section (3) ; and
- (ii) the necessary evidence required by the Public Debt Office in terms of sub-section (9) has been furnished.

(5) The Bond under sub-section (3) may be held by the holder of the office either alone or jointly with a person or persons holding an office, other than a public office, or another person or an official authorised to hold the Bond by the name of his office.

(6) When a Bond is held by a person in the name of his office, any document relating to the Bond may be executed by the person for the time being holding the office by the name in which the Bond is held as if his personal name were so stated.

(7) Where any transfer deed, power of attorney or other document purporting to be executed by a Bondholder described in the books of the Public Debt Office as trustee or as a holder of an office is produced to the Public Debt Office, the Public Debt Office shall not be

(Section 7.)

concerned to inquire whether the executant is entitled under the terms of any trust or document to give any such power or to execute such deed or other document and may act on the transfer deed, power of attorney or document in the same manner as though the executant is a Bond-holder and whether the Bond-holder is or is not described in the transfer deed, power of attorney or document as a trustee or as a holder of an office and whether he does or does not purport to execute the transfer deed, power of attorney or document in his capacity as a trustee or as a holder of the office.

(8) Nothing in this Act shall, as between any trustees and office-holders, or as between any trustees or office-holders and the beneficiaries, under a trust or any document, be deemed to authorise the trustees or office-holders to act otherwise than in accordance with the provisions of law applicable to trust, the terms of the instrument constituting the trust, or the rules governing the association, of which the Bond-holder is a holder of an office; and neither the Government nor any person holding or acquiring any interest in any Bond shall, by reason only of any entry in any register maintained by or on behalf of the Provincial Government or the Bank in relation to any Bond or of anything in any document relating to Bond, be affected with notice of any trust or of the fiduciary character of any holder of any Bond or of any fiduciary obligation attaching to the holding of any Bond.

(9) Before acting on any application made, or on any document purporting to be executed in pursuance of this section by a person as being the holder of any office, the Public Debt Office may require the production of evidence that such person is the holder for the time being of that Office.

Recognition
of title
to Bonds.

7. The executors or administrators of a deceased sole holder of a Bond and the holder of a succession certificate issued under Part X of the Succession Act, 1925, shall be the only persons who may be recognised by the Bank as having any title to the Bond : Act XXXIX of 1925.

Provided that nothing in this section shall bar the recognition by the Bank of the manager or the sole surviving male member of a Hindu undivided family governed by the *Mitakshara* Law as having a title to a Bond, when the Bond appears to the Bank to stand in the name of a deceased member of the family and an application is made by such manager or sole surviving member for recognition of his title and is supported by a certificate issued by the District Magistrate after such inquiry as

of 1957.]

(Sections 8, 9.)

may in his opinion be necessary to the effect that the deceased belonged to a Hindu undivided family governed by the *Mitakshara* Law, that the Bond formed part of the joint property of the family, and that the applicant is the managing or sole surviving male member of the family.

Act IX of 1872. 45 (1) Notwithstanding anything contained in section 1872,—

Rights of survivors of joint holders and summary procedure in certain cases.

(a) when a Bond is held by two or more persons jointly and either or any of them dies, the title to the Bond shall vest in the survivor or survivors of those persons; and

(b) when a Bond is payable to two or more persons severally and either or any of them dies, the Bond shall be payable to the survivor or survivors of those persons or to the representatives of the deceased or to any of them:

Provided that nothing contained in this section shall affect any claim which any representative of a deceased person may have against the survivor or survivors under or in respect of any Bond to which this section applies.

Act XXXIX of 1925.

(2) (i) Notwithstanding anything contained in section 7, if, within six months of the death of a person who was the holder of a Bond or Bonds the face-value of which does not in the aggregate exceed five thousand rupees, probate of his Will or letters of administration of his estate or a succession certificate issued under Part X of the Succession Act, 1925, is not produced to the Bank, or proof to the satisfaction of the Bank that proceedings have been instituted to obtain one of these is not furnished, the Bank may determine who is the person entitled to the Bond or Bonds or to administer the estate of the deceased and may make an order vesting the Bond or Bonds in the person so determined.

(ii) When a Bond or Bonds belong to a minor or a person who is insane and incapable of managing his affairs and the face-value of the Bond or Bonds does not in the aggregate exceed five thousand rupees, the Bank may make such order as it thinks fit for the vesting of such Bond or Bonds in such person as it considers represents the minor or insane person.

9. (1) If the Bank is of opinion that a doubt exists as to the title to a Bond or in cases of the Bonds to which clauses (i) or (ii) of sub-section (2) of section 8 apply, the Bank may determine the person in the manner hereunder as being entitled in its opinion to the Bond and payment of all accrued and accruing instalments and may by its order vest title in such person accordingly.

Determination of person entitled to a Bond.

(Section 9.)

(2) The person claiming to be entitled to a Bond or to payment of accrued and accruing instalments due thereon shall apply to the Bank and adduce documentary evidence in support of his claim.

(3) On receipt of the application by the Bank, the Bank, if it contemplates making a vesting order, may, if it considers proper, request a District Magistrate to record or to have recorded the whole or any part of such evidence as any person whose evidence the Bank requires may produce or direct one of its officers to record such evidence or may receive evidence upon affidavit. Nothing herein shall preclude the Bank from determining title without enquiry in the manner laid down in this sub-section.

(4) The Bank shall thereafter give notice in writing to each claimant of whom it has knowledge stating the names of all other claimants and the time when and the officer of the Bank by whom the determination of title will be made.

(5) On the date and at the time fixed in the notice, the officer shall—

- (i) examine the evidence adduced by the parties;
- (ii) hear the parties affected and record such evidence as they adduce:

Provided that no further evidence shall be recorded or entertained in cases where the District Magistrate has been requested to record or to have evidence recorded, or the Bank has directed one of its officers to record the evidence; and

- (iii) determine the issue as to who is entitled to the Bond.

(6) After determination of the issue by the officer, the Bank shall give to each claimant notice in writing of the determination so made.

(7) The notices under sub-sections (4) and (6) shall be published in three successive issues of the *Gazette of Pakistan* and the local *Official Gazette* as soon as possible after the date on which they are respectively issued.

(8) The Bank may require [the person considered by the Bank as being entitled to the Bond or to instalments due thereon to execute a security bond in the prescribed form with one or more sureties or to furnish security not exceeding twice the value of the subject-matter of the order, to be held

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(Sections 10—12.)

at the disposal of the Bank, to pay to the Bank or to any person, to whom the Bank may assign the security bond or the security in furtherance of sub-section (2) of section 13 of this Act, the amount thereof.

(9) On the expiry of six months from the publication under sub-section (7) of the notice issued under sub-section (6), the Bank may make an order vesting the Bond and any instalments due thereon in the person found by the Bank to be entitled thereto.

(10) Notwithstanding anything contained in this section, the Bank may vest—

(a) title limited to drawal of instalments in guardian of a minor or a manager of the property of an insane person, and

(b) full title in the minor or the insane person to take effect on the minor attaining the age of majority or on the insane person becoming sane.

10. The rights of all persons in relation to the Bonds shall be determined in connection with all such questions as are dealt with by this Act by the law and in the Courts of Pakistan. Determination of rights.

11. (1) For the purpose of making any order which it is empowered to make under this Act, the Bank may request a District Magistrate to record or to have recorded the whole or any part of such evidence as any person whose evidence the Bank requires may produce. The District Magistrate so requested may himself record or may direct any Magistrate subordinate to him to record the evidence and shall forward a copy thereof to the Bank. Recording of evidence.

(2) For the purpose of making a vesting order under this Act, the Bank may direct one of its officers to record the evidence of any person whose evidence the Bank requires or may receive evidence upon affidavit.

(3) A Magistrate or an officer of the Bank acting in pursuance of this Act may administer an oath to any witness examined by him.

12. Where the Bank contemplates making an order under this Act to vest a Bond in any person, the Bank may suspend payment of instalments due on the Bond or postpone the renewal of the Bond or the issue of any duplicate Bond or of any new Bond or Bonds in lieu thereof or the registration of any transfer of the Bond, until the vesting order has been made. Suspension of payment and postponement of order and registration.

(Sections 13—17.)

Bank may require security

13. (1) Before making any order which it is empowered to make under this Act, the Bank may require the person in whose favour the order is to be made to execute a security bond with one or more sureties in the prescribed form or to furnish security not exceeding twice the value of the subject-matter of the order, to be held at the disposal of the Bank, to pay to the Bank or any person, to whom the Bank may assign the security bond or the security in furtherance of sub-section (2), the amount thereof.

(2) A Court before which a claim in respect of the subject-matter of any such order is established may order the security bond or the security to be assigned to the successful claimant who shall thereupon be entitled to enforce the security bond or realise the security to the extent of such claim.

Effect of recognition by the Bank of a person as the holder of a Bond.

14. No recognition by the Bank of a person as the holder of a Bond and no order made by the Bank under this Act shall be called in question by any Court so far as such recognition or order affect the relation of the Provincial Government or the Bank with the person recognised by the Bank as the holder of a Bond or with any person claiming an interest in such bond; and any such recognition by the Bank of any person or any order by the Bank vesting a Bond in any person shall operate to confer on that person a title to the bond subject only to a personal liability to the rightful owner of the Bond for money had and received on his account.

Cancellation of proceedings.

15. Where the Bank contemplates making an order under this Act vesting a Bond in any person, the Bank may, at any time before the order is made, cancel any proceedings already taken for that purpose and may, on such cancellation, proceed anew to the making of such order.

Bar to claiming of interest on instalment.

16. No person shall be entitled to claim interest on the instalment due on a Bond in respect of any period which has elapsed after the earliest date on which demand could have been made for the payment of the instalment.

Penalty for false statement.

17. (1) If any person, for the purpose of obtaining for himself or for any other person any title to a Bond, makes to any authority under this Act, in any application or in the course of any enquiry, any statement which is false and which he either knows to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

(2) No Court shall take cognizance of any offence under sub-section (1) except on the complaint of the Bank.

of 1957.]

(Section 18.)

18. (1) The Provincial Government may make rules for carrying out the purposes of this Act. Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the authority which can make requisition for issue of Bonds and the procedure and form for making such requisition;
- (b) the form and denomination of Bonds and payment of instalments thereunder;
- (c) the manner of issue, enfacement and delivery of Bonds;
- (d) the issue of duplicate Bonds and subdivision, consolidation and renewal thereof;
- (e) the form of security bond under sub-section (8) of section 9 and sub-section (1) of section 13;
- (f) the circumstances requiring renewal of Bonds;
- (g) the manner of application for information or inspection and the circumstances under which information may be supplied or inspection may be allowed;
- (h) the fees for renewal, consolidation or subdivision of Bonds and issue of duplicate Bonds and for information and inspection and in other matters;
- (i) the powers of the Bank in procedural matters; and
- (j) the manner of service of notices.

East Pakistan Act No. VIII of 1958.

THE ASSEMBLY MEMBERS' PRIVILEGES (EAST PAKISTAN) ACT, 1958.¹

[4th August, 1958.]

An Act to provide for privileges of the Members of the Provincial Assembly, East Pakistan.

WHEREAS it is expedient to regulate the terms and extent of privileges of the Members of the Provincial Assembly for the purposes mentioned hereinafter other than those expressly provided in the Constitution;

it is hereby enacted as follows:—

(1) This Act may be called the Assembly Members' Privileges (East Pakistan) Act, 1958. Short title and commencement.

(2) It shall come into force at once.

2. In this Act, unless there is anything repugnant to the context or meaning thereof, Definitions.

(a) "Constitution" means the Constitution of the Islamic Republic of Pakistan;

(b) "Members" means the Members of the Provincial Assembly of East Pakistan and includes Ministers and Deputy Ministers;

(c) "Assembly Secretariat" means the Secretariat of the Provincial Assembly, East Pakistan, that is, East Pakistan Assembly Secretariat;

(d) "Committee" means a Committee consisting of the members set up by or under the authority of the Assembly or the Provincial Government;

"Meeting" means the meeting of the Assembly or Committee; and

"Place of residence" means the place where a member generally resides for at least six months in a year.

¹For the Statement of Objects and Reasons, see the *Dacca Gazette*, Extraordinary, dated the 10th April, 1957, Pt. IV, p. 1000; for Proceedings of the Provincial Assembly, see the Proceedings of the meetings of the East Pakistan Legislative Assembly held on 30th March, 1957, 21st September, 1957 and 3rd April, 1958.

(Sections 3—6.)

(2) In this Act, except where otherwise provided where the context otherwise requires, all expressions shall have the same meanings as they bear in the Constitution and in the East Pakistan Assembly Procedure Rules.

Supply of Government publications—Provincial and Central.

3. (1) Each Member shall be supplied free of charge with Acts, By-laws, Rules, Regulations and all other publications of the Provincial Government including the *Gazette* and Annual Calendar of the Christian era printed and published by the Superintendent, Government Printing, Tejgaon, at his desired address in East Pakistan.

(2) The Provincial Government shall similarly arrange to supply to each Member at his desired address in East Pakistan, *Gazette of Pakistan*, all Central Acts, and Rules and Regulations made thereunder.

Charges free postal communication.

4. Each Member shall be entitled to send notices of questions, resolutions, motions and all other matters proposed to be brought before the Assembly in a Session including despatch of the corrected speeches of the members of a meeting of the Assembly and all other communications in Assembly matters including applications for visitors' ticket to this Secretariat in the prescribed form to be supplied to the Members by this Secretariat free of cost and postal charges which shall be paid by the Member.

Visit of Jails, reformatories, hospitals, dispensaries and educational institutions by Members and submission of reports thereon.

5. (1) Members of the Provincial Assembly shall be entitled to visit all jails, reformatories, hospitals, dispensaries and educational institutions located in their respective district in such manner and at such intervals as may be prescribed.

(2) After such visits Members shall submit reports direct to the Ministers-in-charge of the departments concerned.

Members not liable to any Civil or Criminal proceedings for bringing up any matter before the Assembly by petition, bill, etc.

6. No Member shall be liable to any Civil or Criminal proceedings by reason of any matter which he has brought up or given notice of his intention to bring before the Assembly or any Committee thereof for the purpose of bringing a Bill, resolution, motion, question or other matter before the Assembly on the ground that such petition, Bill, resolution, motion or other matter of his intention for bringing before the Assembly is disallowed or not being admitted by the Speaker or by any other person duly entitled and authorised to do so.

*The Assembly Members' Privileges (East Pakistan) 697
Act, 1958.*
of 1958.

(Sections 7—12.)

7. No person shall be liable to any proceedings in any Court in respect of the publications by, or under the authority of, a Provincial Assembly of any report, paper vote or proceedings. Publication of an extract or an abstract of Assembly proceedings published *bona fide* and without malice shall be protected from any action for libel, but this protection shall not extend to the headline which is not a part of the proceedings of the Assembly. Exemption from proceedings for publication of report, proceedings, etc.
8. Every Member shall be provided with one First Class Railway, Steamer and Air Pass for movement throughout the Province. First Class Railway, Steamer and Air Pass for Members.
9. Notwithstanding anything contained in any existing law, a Member is entitled to draw daily allowance if he attends a meeting, irrespective of his usual place of residence when attending meetings. Right of Members to draw daily allowance when attending meetings.
10. Members shall be entitled to accommodation in houses, Government *Dak Bungalows* and other houses in mufassils under the control of the Government. Accommodation for Members.
 They shall have to pay for such accommodation:
 Provided that the Member shall not ordinarily stay in those places for more than three days at a stretch.
 Explanation.—In determining the question of priority for accommodation, Members of the Provincial Assembly shall be deemed to have the status of a District Officer for the purpose of this section.
11. Members of the Provincial Assembly shall be deemed to be Class I Gazetted Officers for the purpose of character and identification. Members to be deemed to be Class I Gazetted Officers for the purpose of certificates of character and identification.
12. When a Member is arrested on a criminal charge or for a criminal offence or is sentenced to imprisonment or is detained under executive order, the commanding officer, magistrate or the executive authority, as the case may be, shall immediately intimate such fact to the Speaker indicating the reasons for the arrest, detention or imprisonment of the Member in the appropriate form as set out in the Schedule, and this fact shall be brought to the notice of the House by the Speaker in due course. Communication to the Speaker regarding arrest, detention, conviction or release of Members.

(Sections 13—18.)

(2) When a Member is arrested and after conviction released on bail pending an appeal or otherwise released, such fact shall also be intimated to the Speaker by the authority concerned in the appropriate form as set out in the Schedule, and this fact shall be intimated by the Speaker to the House.

Exemption from personal attendance in Civil or Revenue Court.

13. Members of the Provincial Assembly shall be exempted from personal appearance in any Civil or Revenue Court during a Session of the Assembly or of any meeting of any Committee and two days preceding and following such Session of the Assembly or meeting of the Committee, as the case may be.

Medical attendance and application of Special Medical Attendance Rules, 1950, under Appendix No. 14 of East Bengal Services Rules, Part II.

14. During the Session of the Assembly or of any meeting or while on any specific duty entrusted to him in the Province, if a Member is taken ill, he shall be entitled to free medical attendance by the authorised medical attendant as defined in rule 2 of the Special Medical Attendance Rules, 1950.

Court summons to Members.

15. No Court, Civil or Criminal, shall send summons to Members of the Provincial Assembly to be served through the Speaker or any other officer of the Assembly Secretariat.

Preparation of travelling, daily and conveyance allowance bills of Members by the Assembly Secretariat.

16. The Assembly Secretariat shall, on receipt of necessary particulars from a Member, prepare his travelling allowance, daily allowance and conveyance allowance bills and, after pre-audit by the Accountant-General, East Pakistan, arrange to deliver cheques to the Member, payable at the State Bank of Pakistan, Dacca, in the Assembly Secretariat or at his Dacca residence.

Warrant of Precedence.

17. The position of the Members of the Provincial Assembly shall be the same as that of the Members of the National Assembly in the Warrant of Precedence within their charge.

Rules to be framed by Provincial Government.

18. The Provincial Government shall frame rules for carrying out the provisions of this Act.

of 1958.]

(The Schedule.)

SCHEDULE.

(Vide, section 12.)

Form of communication regarding arrest, detention, conviction or release, as the case may be, of a Member.

Place

Date

To THE SPEAKER,

Provincial Assembly, East Pakistan, Dacca.

DEAR MR. SPEAKER,

A

I have the honour to inform you that I have found it my duty, in exercise of the powers conferred upon me under section.....of the(Act), to direct that Mr.....Member of the Provincial Assembly, East Pakistan, be ^{arrested}_{detained} for.....

.....(reasons for the arrest or detention, as the case may be)

Mr....., Member of the Provincial Assembly, East Pakistan, was accordingly ^{arrested}_{taken into custody} at.....(time) on.....(date), and is at present lodged in the.....(Jail).....(place).

B

I have the honour

to inform you that Mr....., the Provincial Assembly, East Pakistan, was tried at the.....Court before me on a charge (or charges) of.....(nature of offence charged).

On.....(date) after a trial lasting for.....days, found him guilty of.....and sentenced him to imprisonment for.....(period).

(His application for leave to appeal to*.....is pending consideration.)

*Name of the Court.

(The Schedule.)

I have the honour to inform you that Mr....., Member of the Provincial Assembly, East Pakistan, who was convicted on.....(date) and imprisoned for.....(period) for.....(nature of offence for which convicted) was released on bail pending appeal (or, as the case may be) released on the sentence being set aside on appeal on the.....(date).

Yours faithfully

Judge, Magistrate or Executive Authority.

East Pakistan Act No. XII of 1958.

THE EAST PAKISTAN FINANCE (SUPPLEMENTARY)
ACT, 1958.¹

[27th September, 1958.]

An Act to raise funds for augmentation of the revenues of the Province and for that purpose to levy certain taxes.

Whereas it is expedient to raise funds for augmentation of the revenues of the Province and for that purpose to levy certain taxes as hereinafter provided;

It is hereby enacted as follows:—

1. (1) This Act may be called the East Pakistan Finance (Supplementary) Act, 1958. Short title and extent.

(2) It extends to the whole of East Pakistan.

2* * * *

3. In the East Pakistan Urban Immovable Property Tax Act, 1957,— Amendment of E. P. Act XI of 1957.

(a) in section 6, in clause (g), for the letters and figures “Rs.600”, the letters and figures “Rs.1,000” shall be substituted; and

(b) section 13 shall be omitted.

4. In section 6 of the East Bengal Betterment Fees Act, 1953, in sub-section (2), for the word “one-fourth”, the word “one-half” shall be substituted. Amendment of section 6 of E. P. Act XII of 1953.

5. (1) In section 3 of the Bengal Amusements Tax Act, 1922 (hereinafter referred to in this section as the said Act),— Amendment of Bengal Amusements Tax Act, 1922.

(a) in sub-section (1), for the words “fifty per centum on”, the words “sixty per centum on” shall be substituted; and

(b) in sub-section (4), for the words “thirty-three and one-third per centum on”, the words “thirty-seven and one-half per centum on” shall be substituted.

¹For Statement of Objects and Reasons, see the *Dacca Gazette, Extraordinary*, dated the 24th September, 1958, Pt. IV, p. 2326; for Proceedings in the Assembly, see the proceedings of the meeting of the East Pakistan Legislative Assembly held on 24th September, 1958.

²Section 2 was repealed by the East Pakistan Finance (Third) Ordinance, 1958 (E. P. Ord. No. LXXXII of 1958), section 4.

(Sections 6—8.)

(2) In section 15 of the said Act, for the word "fifty" occurring twice, the word "twenty" shall be *substituted*.

(3) In sub-section (1) of section 18 of the said Act, for the word "fifty", the word "twenty" shall be *substituted*.

Amendment
of sec. 3 of
E. P. Act²X
of 1957.

6. In the East Pakistan Finance Act, 1957, in section 3, the proviso to sub-section (1) shall be *omitted*.

Amendment
of Bengal
Electricity
Duty Act,
1935.

7. In the Bengal Electricity Duty Act, 1935, in the Ben. Ac
First Schedule,— X of 1935

(a) in Article (1), in paragraph (b), for the words "six pies", the words "nine pies" shall be *substituted*; and

(b) for Article (2), the following shall be *substituted*, namely:—

"(2) In respect of all premises where the supply of energy by a licensee is unmetered for—

	Annas per mensem.
every lamp of less than 30 watts ..	3
every lamp of 30 watts or more but less than 40	4½
every lamp of 40 watts or more but less than 60	6
every lamp of 60 watts or more but not exceeding 100	9
and for every additional 15 watts or fraction thereof in excess of 100 in any lamp	1½ "

Repeal and
savings.

8. (1) The East Pakistan Finance (Second) Ordinance, E. P. Ord
1958, is hereby repealed. LXV of
1958.

(2) Notwithstanding such repeal, any direction issued, action taken or order passed or proceedings commenced under any provision of the said Ordinance shall continue in force and shall be deemed to have been issued, taken, passed or commenced, as the case may be, under the corresponding provision of this Act, as if this Act had come into force on the date of commencement of the said Ordinance.

East Bengal Regulation No. I of 1950.

**THE EAST BENGAL EXCLUDED AND PARTIALLY
EXCLUDED AREAS LAWS (SECOND) REGULATION,
1949.**

[3rd February, 1950.]

Ben. Act VI of 1914. A Regulation to apply the Bengal Medical Act, 1914, to the Chittagong Hill-tracts and to the partially excluded areas of the Mymensingh district.

Ben. Act VI of 1914. WHEREAS it is expedient to apply the Bengal Medical Act, 1914, to the Chittagong Hill-tracts and to the partially excluded areas of the Mymensingh district ;

26 Geo-V, C. 2. AND WHEREAS by sub-section (2) of section 92 of the Government of India Act, 1935, as adapted by the Pakistan (Provisional Constitution) Order, 1947, the Governor is empowered to make regulations for the peace and good Government of any area in his Province which is for the time being an excluded area, or a partially excluded area;

Now, THEREFORE, the Governor of East Bengal, in exercise of the said powers and all other powers enabling him in that behalf, is pleased to make the following Regulation :—

1. (1) This Regulation may be called the East Bengal Excluded and Partially Excluded Areas Laws (Second) Regulation, 1949. *Short title and commencement.*

(2) It shall be deemed to have come into force on the 15th day of August, 1947.

Ben. Act VI of 1914. 2. The Bengal Medical Act, 1914, shall apply to the Chittagong Hill-tracts and to the partially excluded areas of the Mymensingh district. *Application of Bengal Act VI of 1914 to the Chittagong Hill-tracts and to the partially excluded areas of the Mymensingh district.*

East Bengal Regulation No. II of 1950.

**E MYMENSINGH PARTIALLY EXCLUDED AREAS
TENANCY REGULATION, 1949**

[13th February, 1950.]

Regulation to make further provisions relating to the law of landlord and tenant in the partially excluded areas in the district of Mymensingh.

WHEREAS it is expedient to make further provisions relating to the law of landlord and tenant in the partially excluded areas in the district of Mymensingh;

AND WHEREAS by sub-section (2) of section 92 of the Government of India Act, 1935, as adapted by the Pakistan (Provisional Constitution) Order, 1947, the Governor is empowered to make regulations for the peace and good government of any area in his Province which is for the time being a partially excluded area;

THEREFORE, the Governor of East Bengal in exercise of the said powers and all other powers enabling him in that behalf, is pleased to make the following Regulation:—

(1) This Regulation may be called the Mymensingh Partially Excluded Areas Tenancy Regulation, 1949. Short title and extent.

It extends to the partially excluded areas in the district of Mymensingh.

In this Regulation, unless there is anything repugnant to the subject or context,— Definitions.

the expressions “tenant” and “produce rent” have the same meanings as in the Mymensingh Partially Excluded Areas Tenancy Regulation, 1940;

all other words or expressions used in this Regulation and used in the Bengal Tenancy Act, 1885, have the same meanings as in that Act.

(2) Notwithstanding anything contained in the Bengal Tenancy Act, 1885, or in the Mymensingh Partially Excluded Areas Tenancy Regulation, 1940, or in any other law in force in that behalf, it shall be lawful for the Provincial Government to invest a Revenue-officer with the following powers or any of them, namely:— Power to authorise settlement and commutation of rent.

(a) power to settle all rents;

(b) power, when settling rents, to commute all produce rents to fair and equitable money rents;

E. B. R.

(Sections 4, 5.)

- c) power, when settling rents, to reduce rents if, in the opinion of the officer, the tenance of existing money rents would be on any ground, whether specified in the Bengal Tenancy Act, 1885, or not, be unfair or inequitable.

(2) The powers given under this section may be exercisable within a specified area, either generally or in reference to specified cases or classes of cases.

(3) When a Revenue officer is invested with the powers under clause (b) of sub-section (1), he shall compel the tenant to produce rent payable in respect of any land to a fair and equitable money-rent at an amount not exceeding one-fifth of the total value of the annual gross produce of such land, obtained by multiplying the normal annual yield of that land, determined in the manner prescribed, by the average price of each kind of produce prevailing in the area preceding twelve years, excluding the years in which prices were abnormal.

(4) Subject to the provision of sub-section (3), the settlement of rents under this section shall be made, and may be, in the manner provided by sections 1 and 2 (both inclusive) of the Bengal Tenancy Act, 1885.

(5) All rents settled under this section shall be deemed to have been settled under Chapter X of the Bengal Tenancy Act, 1885.

Bar to the payment or claiming of compensation.

4. Notwithstanding anything contained in any law for the time being in force or in any contract, a tenant shall be liable to pay and no landlord shall be entitled to claim any compensation for the settlement of rent or for the commutation of any produce to a fair and equitable money-rent under the provisions of this Regulation.

Recovery of the expenses of the proceedings in connection with this Regulation.

5. (1) Notwithstanding anything contained in section 114 of the Bengal Tenancy Act, 1885, when the preparation of a record-of-rights has been directed or undertaken under Chapter X of that Act with a view to the settlement of rents under this Regulation, all expenses incurred in carrying out the provisions of the said chapter of this Regulation in any area to which this Regulation extends (including expenses that may be incurred at any time, whether before or after the preparation of the record-of-rights, in the maintenance, repair or restoration of boundary marks and other survey marks erected for the purpose of carrying out the said provisions) shall be defrayed by the tenants or occupants of land.

of 1950.]

(Section 5.)

area in such proportions and in such instalments (if any) as the Provincial Government, having regard to all the circumstances, may determine.

(2) The estimated amount of the expenses likely to be incurred for the maintenance, repair or restoration of boundary marks for a period not exceeding fifteen years may be recovered in advance in the same manner as if such expenses had already been incurred.

(3) The cost of preparing copies of survey maps and record-of-rights for distribution to landlords and tenants shall be deemed to be part of the expenses referred to in sub-section (1).

(4) The portion of the aforesaid expenses which any person is liable to pay shall be recoverable by the Provincial Government as if it were an arrear of land revenue.

East Bengal Regulation No. III of 1950.

**THE EAST BENGAL PARTIALLY EXCLUDED
AREAS LAWS REGULATION, 1950.**

[27th March, 1950.]

Act II of 1947. *A Regulation to apply the Prevention of Corruption Act, 1947, to the Partially Excluded Areas of the Mymensingh district.*

Act II of 1947. WHEREAS it is expedient to apply the Prevention of Corruption Act, 1947, to the partially excluded areas of the Mymensingh district;

26. Geo.
V. C. 2. AND WHEREAS by sub-section (2) of section 92 of the Government of India Act, 1935, as adapted by the Pakistan (Provisional Constitution) Order, 1947, the Governor is empowered to make regulations for the peace and good Government of any area in his Province which is for the time being an excluded area, or a partially excluded area ;

Now, THEREFORE, the Governor of East Bengal, in exercise of the said powers and all other powers enabling him in that behalf, is pleased to make the following Regulation :—

1. (1) This Regulation may be called the East Bengal Partially Excluded Areas Laws Regulation, 1950.

Short title
and com-
mencement.

(2) It shall come into force on the date of its publication in the *Official Gazette*.

Act II of 1947. 2. The Prevention of Corruption Act, 1947, shall apply to the partially excluded areas of the Mymensingh district.

Application
of Act II of
1947 to the
partially
excluded
areas of the
Mymensingh
district.

East Bengal Regulation No. V of 1950.

**THE EXCLUDED AND PARTIALLY EXCLUDED
AREAS LAWS REGULATION, 1950.**

[12th September, 1950.]

A Regulation to apply the Bengal State Aid to Industries Act, 1931, to the Chittagong Hill-tracts and to the partially excluded areas of the Mymensingh district.

Bengal
Act III
of 1931.

WHEREAS it is expedient to apply the Bengal State Aid to Industries Act, 1931, to the Chittagong Hill-tracts and to the partially excluded areas of the Mymensingh district ;

26 Geo.
V. C. 2.

AND WHEREAS by sub-section (2) of section 92 of the Government of India Act, 1935, as adapted by the Pakistan (Provisional Constitution) Order, 1947, the Governor is empowered to make regulations for the peace and good Government of any area in his Province which is for the time being an excluded area or a partially excluded area ;

NOW, THEREFORE, the Governor of East Bengal in exercise of the said powers and all other powers enabling him in that behalf, is pleased to make the following Regulation :—

1. (1) This Regulation may be called the Excluded and Partially Excluded Areas Laws Regulation, 1950.

Short title
and com-
mencement.

(2) It shall come into force on the date of its publication in the *Official Gazette*.

Bengal
Act III
of 1931.

2. The Bengal State Aid to Industries Act, 1931, shall apply to the Chittagong Hill-tracts and to the partially excluded areas of the Mymensingh district.

Application
of Bengal Act
III of 1931
to the Chita-
gong Hill-
tracts and to
the partially
excluded
areas of the
Mymensingh
district.

East Bengal Regulation No. I of 1951.

THE CHITTAGONG HILL-TRACTS SARAI REGULATION, 1951.

[22nd January, 1951.]

A Resolution to apply the Sarais Act, 1867, to the Chittagong Hill-tracts.

XXII of
1867.

...AS it is expedient to apply the Sarais Act, 1867, to the Chittagong Hill-tracts ;

26 Geo.
V. C. 2.

AND WHEREAS by sub-section (2) of section 92 of the Government of India Act, 1935, as adapted by the Pakistan (Provisional Constitution) Order, 1947, the Governor is empowered to make regulations for the peace and good Government of any area in his Province which is for the time being an excluded area, or a partially excluded area ;

NOW, THEREFORE, the Governor of East Bengal, in exercise of the said powers and all other powers enabling him in that behalf, is pleased to make the following Regulation :—

1. This Regulation may be called the Chittagong Hill-tracts Sarais Regulation, 1951.

Short title
and com-
mencement.

(2) It shall come into force on the date of its publication in the *Official Gazette*.

XXII of
of 1867.

2. The Sarais Act, 1867, shall apply to the Chittagong Hill-tracts.

Application
of Act XXII
of 1867 to the
Chittagong
Hill-tracts

(Sections 8, 9.)

8. Every application under section 6 shall be made in the prescribed form and shall be signed and verified in the prescribed manner.

Form and manner of application under section 6 and verification of such application.

9. (1) On receipt of an application under section 6, the Board shall, in the prescribed manner, serve a notice on every creditor whose name and address are given in the application and also publish a general notice requiring all creditors to submit a statement of debts in the prescribed form within one month of the date of service of the notice, or publication of the general notice, whichever is later, and further requiring them to produce on a date specified in the notice all documents by which they intend to prove any debt owing to them together with a true copy of each such document:

Further statements of debts.

Provided that, if the Board is satisfied that any creditor is for good and sufficient cause unable to comply with such notice, it may extend the period for the submission of his statement of debt or the production of his documents and true copies thereof.

(2) If any creditor fails to submit his statement of debts or produce his documents under sub-section (1), the Board may pass an order in writing declaring that the amount of any debt due to him from the debtor on the date of such order shall, for the purposes of this Regulation, be deemed to be the amount stated in the statement of debts submitted by the debtor, and that no debt of which the creditor has failed to submit a statement, other than a debt which the debtor has included in his statement of debt, shall be payable.

(3) No document relating to a debt regarding which a creditor has failed to submit a statement under sub-section (1) and no document which has not been produced by him as required by that sub-section, shall be admissible in evidence in any Civil or Revenue Court against the debtor or his successor-in-interest in any suit or proceeding by the creditor or by any person claiming under him for the recovery of the debt to which such document relates.

(4) If a creditor duly files a true copy of any original document in compliance with the notice under sub-section (1), the Board shall mark the original document and keep the copy after verifying its correctness, and return the original to the creditor.

(Sections 10, 11.)

Board to
decide cer-
tain ques-
tions and to
determine
amount of
debts.

10. (1) If any question arises whether a person is a tanka tenant or not, or whether a liability is a debt or not, within the meaning of this Regulation, or if there is any doubt or dispute as to their existence of any debt, the Board shall decide such question, doubt or dispute.

(2) After considering the statements of debt submitted under section 6 and sub-section (1) of section 9 and the evidence produced, if any, and after giving an opportunity to the parties to appear and be heard, the Board shall, in accordance with rules made under this Regulation, determine in respect of each debt the amount of the principal and the amount of the arrears of interest, if any, due thereon up to the date of such determination.

(3) When the principal and the arrears of interest, if any, in respect of all debts owed by the debtor have been determined under sub-section (2), the Board shall, after giving the parties an opportunity of being heard and in accordance with rules made under this Regulation, determine the total assets of the debtor, the annual income of the debtor from such assets, the amount of expenditure that the debtor may have reasonably to incur annually and the amount that the debtor may be in a position to pay each year towards the liquidation of his debts.

(4) When the amount that the debtor may be in a position to pay each year towards the liquidation of his debts has been determined under sub-section (3), twenty times such amount shall be deemed to be the total paying capacity of the debtor.

(5) If the total amount of the debts owed by the debtor as determined under sub-section (2) exceeds his total paying capacity referred to in sub-section (4), the Board shall scale down all such debts, proportionately to the total paying capacity, so that the aggregate of the scaled down debts becomes equivalent to, and does not exceed, such total paying capacity.

(6) The debts determined under sub-section (2) or, when such debts are liable to be scaled down under sub-section (5), the debts so scaled down shall be deemed to be the debts payable by the debtor, and the Board shall pass an order directing the debtor to pay to his creditors the debts so payable in such number of annual instalments not exceeding twenty, as it may fix subject to the rules prescribed in this behalf by the Provincial Government.

Award and
its effect.

11. (1) When an order has been passed under sub-section (6) of section 10, the Board shall embody such

(Sections 12, 13.)

order in an award in the prescribed form on payment of such fee as may be prescribed by the Provincial Government.

(2) At a place and time of which notice shall be given to the parties in the prescribed manner the award shall be explained to the parties present and shall be signed by the Board ; but the validity of an award shall not be affected by the absence of any of the parties.

Act VII
of 1935.

(3) From the date of the signing of the award under subsection (2) it shall, notwithstanding anything contained in any other law for the time being in force or in any contract and in supersession of all previous decrees or orders of any Civil or Revenue Court and of all awards under the Bengal Agricultural Debtors Act, 1935, in respect of the debts mentioned in it, be binding on the debtor and his creditors and the successors-in-interest of such debtor and creditors.

(4) When an award is made as regards any debt which is secured by a mortgage, lien or charge on any immovable property of a debtor, such mortgage, lien or charge shall subsist to the extent of the amount payable in respect of such debt under the award until such amount has been paid ; but the Board may order restoration of possession of the property to the debtor.

12. (1) On an application being made to it and after hearing the parties the Board may review any order made by it as may be necessary to meet the ends of justice. Review of order.

(2) Clerical mistakes in the award arising from any accidental slip and omission may at any time be corrected by the Board of its own motion or on the prayer of the parties.

Ben. Act
III of
1913.

13. If by the date fixed, the debtor fails to pay any amount payable under an award, such amount shall be recoverable as a public demand under the Bengal Public Demands Recovery Act, 1913, on the filing of an application within the prescribed time by the creditor to whom the amount is due : Recovery of amounts included in an award.

Provided that the Certificate Officer, if satisfied that there is good reason for the failure to pay by the fixed date, may allow time to the debtor for payment of the amount due and may also further direct that a similar period of time shall be given to the debtor for payment of any other amount under the award after the date fixed therein for payment thereof. and the award shall be deemed to be modified accordingly.

(Sections 14, 15.)

Bar to the transfer of immovable property by a debtor.

14. (1) On or after the date of his application under section 6, the debtor shall not, except with the written permission of the Collector of the district, be entitled to transfer any immovable property by private sale, lease, gift, mortgage or otherwise till his application is dismissed under section 16 or, if the application is not so dismissed, till all amounts payable under the award made on such application have been fully paid.

(2) Any transfer made in contravention of sub-section (1) shall be null and void.

Bar to execution of decrees against immovable properties of a debtor and provision regarding certain suits and proceedings.

15. (1) After the commencement of this Regulation, no Civil or Revenue Court shall execute any decree or certificate against any immovable property of a debtor till the time for making an application under section 6 expires.

(2) When, for the recovery or settlement of any debt included in an application made to a Board under section 6, any suit or proceeding including a proceeding in execution of a decree or certificate is pending in a Civil or Revenue Court or any proceeding is pending in a Debt Settlement Board established under the Bengal Agricultural Debtors Act, 1935, or any decree or order has been passed by any such Court, the Board shall forthwith give a notice of such application to such Court or Debt Settlement Board in the prescribed manner.

Ben. A
VII of
1935.

(3) When any such application is dismissed under section 16, or any award is made on such application under section 11, the Board shall also give a notice of such dismissal or award to such Court or Debt Settlement Board in the prescribed manner.

(4) On receipt of a notice under sub-section (2), the Civil or Revenue Court or the Debt Settlement Board, as the case may be, shall suspend further proceedings in respect of such suit or proceeding till it receives any notice under sub-section (3) as to the dismissal of the application, and if an award is made in respect of any such debt under section 11, such suit or proceeding shall abate, or if any decree or order has been passed by any Civil or Revenue Court or any award has been made under the Bengal Agricultural Debtors Act, 1935, in respect of such debt, such decree, order or award shall be null and void.

Ben. A
VII of
1935

(5) When a debtor has applied under section 6 for the settlement of his debts, no Civil or Revenue Court shall entertain any suit, application or proceeding for the recovery of any debt from the debtor.

(Sections 16—18.)

(6) No Civil or Revenue Court shall execute any decree or certificate against any immovable property of the *tanka* tenant for the recovery of any debt incurred by him subsequent to the filing of the application under section 6, till the application is dismissed under section 16 or, if an award is made on such application, till the amounts payable under such award are fully paid off:

en. Act
II of
1913. Provided that nothing in this sub-section shall bar the execution of a Civil Court decree or any certificate under the Public Demands Recovery Act, 1913, for recovery of money rent accruing subsequent to the filing of an application under section 6, with the previous permission of the Board.

(7) In calculating the period of limitation applicable to a suit or proceeding or to an application for the execution of a decree or order, the time during which the institution of such suit or proceeding or the execution of such decree or order is barred under this section shall be excluded.

16. An application under section 6 may be dismissed by the Board, at any stage of its proceedings, in respect of all or any of the debts to which it relates, if, in the opinion of the Board, the applicant fails to pursue his application with due diligence, or he is attempting to use the provisions of this Regulation with a view to defraud any person, or he has transferred any property after the date of the commencement of this Regulation with a view to defraud any creditor. Dismissal of applications.

17. (1) No order of a Board or of a Certificate Officer or of a Collector passed under any provision of this Regulation shall be called in question in any Civil Court. Bar to jurisdiction of Civil Court in certain matters and protection of action taken under this Regulation.

(2) No suit, prosecution or other legal proceeding shall lie against any Board or any other officer for anything which is done or intended to be done in good faith in pursuance of this Regulation or any rules made thereunder.

(3) No suit or other legal proceeding shall lie against the Provincial Government for any damage caused or likely to be caused or for any injury suffered or likely to be suffered by virtue of any provision of this Regulation or by anything done or intended to be done in good faith in pursuance of this Regulation or any rules made thereunder.

18. An appeal shall lie against an order passed by the Board or a Certificate Officer under this Regulation to the Subdivisional Officer of the local area, if preferred within 30 days from the date of the order appealed against, and the decision of the Board or the Certificate Officer, subject to the order of the Subdivisional Officer on appeal, shall be final. Appeal.

(Sections 19—23.)

Control over Board.

19. (1) A Board shall, in all proceedings under this Regulation, be subject to the control of the Provincial Government.

(2) Any person empowered by the Provincial Government in this behalf may inspect or cause to be inspected any property, books or documents in the possession or under the control of the Board and require the Board to furnish such statements, accounts, reports, copies of documents or such other information relating to the proceedings and duties of the Board, as he thinks fit to call for.

Proceedings before a Board.

20. (1) No legal practitioner as defined in the Legal Practitioners Act, 1879, shall represent any party in any proceedings before a Board, nor shall any other agent, without the permission of the Board, represent any party in any such proceedings. XVIII of 1879.

(2) The procedure to be followed by a Board or in appeal in any proceedings shall, subject to the provisions of this Regulation, be in accordance with the rules prescribed under this Regulation.

Registration of awards.

21. (1) Every award made under this Regulation shall be registered under the Registration Act, 1908, by the Board in such manner and within such period as may be prescribed. XVI of 1908.

(2) A Member of the Board shall be deemed to be an officer of Government empowered to execute such instrument within the meaning of section 88 of the Registration Act, 1908.

Power of Board to require attendance of persons and production of documents and to receive evidence.

22. (1) A Board may exercise all such power connected with the summoning and examining of parties and witnesses and with the production of documents as are conferred on Civil Court by the Code of Civil Procedure, 1908. Act V of 1908.

(2) Any person present may be required by a Board to furnish any information or to produce then and there any document relevant to any matter in dispute in his possession or power.

Penalties.

23. (1) Whoever—

(a) intentionally makes any false statement in writing or makes any false statement which has been recorded whether on oath or not before any Board or an Appellate Officer, in any proceeding under this Regulation ;

of 1952.]

(Section 24.)

- (b) intentionally produces before a Board any false copy or translation of a document ;
- (c) falsely personates another and in such assumed character produces any document or makes any admission or statement or does any other act in any proceeding under this Regulation ; or
- (d) abets any act punishable under this section, shall, on conviction, be liable to imprisonment for a term which may extend to three years or to fine, or to both.

(2) No prosecution for any offence under sub-section (1) of this section shall be commenced except by, or with the written permission of, the Collector of the district.

24. (1) The Provincial Government may make rules for carrying out the purposes of this Regulation. Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, the Provincial Government may make rules to provide for all or any of the following matters, namely:—

- (a) the form of the application referred to in section 8, the manner of signing and verifying such application and the particulars it shall contain ;
- (b) the manner of service of the notices and the form of the statement of debts referred to in section 6 and sub-section (1) of section 9 ;
- (c) the manner of marking an original document under sub-section (4) of section 9 ;
- (d) the determination of the amount of the principal and the amount of the arrears of interest in respect of a debt under sub-section (2) of section 10 ;
- (e) the determination of the total assets, the annual income and the annual expenditure of a debtor under sub-section (3) of section 10 ;
- (f) the number of annual instalments for the payment of debts referred to in sub-section (6) of section 10 ;
- (g) the form of an award referred to in sub-section (1) and the manner of giving a notice referred to in sub-section (2) of section 11 ;

[E. B. Reg. No. I of 1952.]

(Section 24.)

- (h) the time for making an application under section 13 ;
- (i) the manner of giving notice under sub-sections (2) and (3) of section 15 ;
- (j) the form and manner of filing an appeal under section 18 ;
- (k) the mode of inspection under sub-section (2) of section 19 ;
- (l) the representation of parties before a Board, subject to the provisions of sub-section (1) of section 20 ;
- (m) the exercise of the powers of a Board referred to in sub-section (1) of section 22 ;
- (n) the scale of fees and process fees in connection with any provision under this Regulation and the manner of payment of such fees.

East Bengal Regulation No. III of 1952.

THE CHITTAGONG-HILL-TRACTS (LAWS) REGULATION, 1952.

[26th July, 1952.]

A Regulation to apply certain enactments to the Chittagong Hill-tracts.

WHEREAS it is expedient to apply to the Chittagong Hill-tracts certain enactments specified in the Schedule ;

AND WHEREAS by sub-section (2) of section 92 of the Government of India Act, 1935, the Governor is empowered to make regulations for the peace and good Government of any area in his Province which is for the time being an excluded, or a partially excluded area ;

NOW, THEREFORE, the Governor of East Bengal, in exercise of the said powers and all other powers enabling him in this behalf, is pleased to make the following Regulation, namely :—

1. This Regulation may be called the Chittagong Hill-tracts (Laws) Regulation, 1952. Short title.

2. The enactment specified in the Schedule annexed hereto shall, subject to the amendments mentioned in the fourth column thereof, apply to the Chittagong Hill-tracts and shall be deemed to have applied to the said tracts with effect from the 21st June, 1949. Application of certain enactments to the Chittagong Hill-tracts.

E.B. Regulation I of 1949. 3. The Chittagong Hill-tracts (Laws) Regulation, 1949, is hereby repealed. Repeal.

SCHEDULE

Central Act.

Year.	Number.	Short title.	Amendments.
1	2	3	4
1880	XII	The Kazis Act, 1880.	In section 1, the expression "The Provincial Government may from time to time, by notification in the <i>Official Gazette</i> , extend it to the whole or any part of the territories under its administration" shall be <i>omitted</i> .

Bengal Act.

Year.	Number.	Short title.	Amendments.
1	2	3	4
1876	I	The Bengal Muhammadan Marriages and Divorces Registration Act, 1876.	(1) Section 1 shall be <i>omitted</i>. (2) The definitions of the words "Inspector-General of Registration", "Registrar" and "district" in section 2 shall be <i>omitted</i>. (3) In section 9A— (i) in sub-clause (i) of clause (a), <i>for</i> the words, figures and commas, "under the Registration Act, 1908, or under any other law", the words "under any law" shall be <i>substituted</i>, and the words "District Judge or" shall be <i>omitted</i>; and (ii) in clause (b), the words, figures and commas "under the Registration Act, 1908, or" shall be <i>omitted</i>. (4) In section 15, <i>for</i> the words "Registrar of the district", occurring four times, the words "Deputy Commissioner" shall be <i>substituted</i>. (5) In section 16, <i>for</i> the words, "Every Registrar of a district" the words "the Deputy Commissioner" shall be <i>substituted</i>. (6) In section 17— (i) <i>for</i> the words "Registrar in whose district the office of such Muhammadan Registrar is situate", the words "Deputy Commissioner" shall be <i>substituted</i>, and (ii) <i>for</i> the words "Every Registrar", the words "the Deputy Commissioner" shall be <i>substituted</i>. (7) In section 18, <i>for</i> the words "Inspector-General of Registration", the words "Provincial Government" shall be <i>substituted</i>. (8) In section 19, the words and comma "submitted to the Provincial Government for approval, and after they have been approved they shall be" shall be <i>omitted</i>.

of 1952.]

Year.	Number.	Short title.	Amendments.
1	2	3	4
1876— <i>Contd.</i>	I— <i>Contd.</i>	The Bengal Muhammadan Marriages and Divorces Registration Act, 1876— <i>contd.</i>	(9) In section 21— (i) <i>for</i> the words “Registrar to whom such Muhammadan Registrar is subordinate” the words “Deputy Commissioner” shall be <i>substituted</i>; (ii) <i>for</i> the words “such Registrar”, the word “him” shall be <i>substituted</i>; (iii) <i>for</i> the words “Registrar may”, the words “Deputy Commissioner may” shall be <i>substituted</i>; and (iv) <i>for</i> the words “by the Registrar”, the words “by the Deputy Commissioner” shall be <i>substituted</i>. (10) In section 22, <i>for</i> the words and commas “to the Registrar of the district within which such Muhammadan Registrar has been authorised to act, and the Registrar, on receiving such copies, shall file them in his office”, the words and commas “to the Deputy Commissioner who, on receiving such copies, shall file them in his office” shall be <i>substituted</i>. (11) In section 23— (i) <i>for</i> the word “district”, the word “place” shall be <i>substituted</i>; and (ii) <i>for</i> the words “Registrar of the district” and also <i>for</i> the word “Registrar”, the words “Deputy Commissioner” shall be <i>substituted</i>. (12) In section 24— (i) in clause (c), <i>for</i> the word “Registrars”, the words “the Deputy Commissioner” shall be <i>substituted</i>; and (ii) in clause (e) <i>for</i> the words “Registrars of districts”, the words “the Deputy Commissioner” shall be <i>substituted</i>.

East Bengal Regulation No. IV of 1952.

THE NALITABARI PUBLIC GAMBLING
REGULATION, 1951.

[29th July, 1952.]

A Regulation to apply the Bengal Public Gambling Act, 1867, to the Nalitabari Police Station in the district of Mymensingh.

Ben. Act
II of
1867. WHEREAS it is expedient to apply the Bengal Public Gambling Act, 1867, to the Nalitabari Police Station, in the district of Mymensingh ;

26 Geo.
V. C. 2. AND WHEREAS by sub-section (2) of section 92 of the Government of India Act, 1935, the Governor is empowered to make regulation for the peace and good Government of any area in his Province which is for the time being an excluded area, or a partially excluded area.

Now, THEREFORE, the Governor of East Bengal in exercise of the said powers and all other powers enabling him in that behalf, is pleased to make the following Regulation:—

1. (1) This Regulation may be called the Nalitabari Public Gambling Regulation, 1951. Short title and commencement.

(2) It shall come into force on the date of its publication in the *Official Gazette*.

Ben. Act
II of
1867. 2. The Bengal Public Gambling Act, 1867, shall apply to the Nalitabari Police Station, in the district of Mymensingh. Application of Bengal Act II of 1867 to the Nalitabari Police Station in the district of Mymensingh.

East Bengal Regulation No. I of 1953.

THE CHITTAGONG HILL-TRACTS (TARIFF AND
CUSTOMS) REGULATION, 1952

[15th August, 1953.]

*A Regulation to apply to the Chittagong Hill-tracts certain
Central Acts relating to tariff and customs.*

WHEREAS it is expedient to apply to the Chittagong Hill-tracts certain Central Acts relating to tariff and customs ;

AND WHEREAS by sub-section (2) of section 92 of the Government of India Act, 1935, the Governor is empowered to make regulations for the peace and good Government of any area in his Province which is for the time being an excluded, or a partially excluded area ;

NOW, THEREFORE, the Governor of East Bengal, in exercise of the said powers and all other powers enabling him in this behalf, is pleased to make the following Regulation, namely :—

1. (1) This Regulation may be called the Chittagong Hill-tracts (Tariff and Customs) Regulation, 1952.

Short title
and com-
mencement.

(2) It shall come into force at once.

2. (1) The enactments specified in Schedule I annexed hereto shall, subject to the amendments mentioned in the fourth column thereof, apply to the Chittagong Hill-tracts.

Application
of certain
Central Acts
to the
Chittagong
Hill-tracts.

(2) The enactment specified in Schedule II annexed hereto shall, to the extent mentioned in the fourth column thereof, apply to the Chittagong Hill-tracts.

SCHEDULE I.

[Section 2(1).]

Year.	Number.	Short title.	Amendment.
1	2	3	4
1924	.. XIX	.. The Land Customs Act, 1924.	1. Sub-section (3) of section 1 shall be <i>omitted</i> . 2. In clause (a) of section 8, the words, figures and comma "within the meaning of section 25 of the Negotiable Instruments Act, 1881", shall be <i>omitted</i> .
1934	.. XXXII	.. The Tariff Act, 1934.	1. Sub-section (3) of section 1 shall be <i>omitted</i> . 2. Sub-section (3) of section 6 shall be <i>omitted</i> .

SCHEDULE II.

[Section 2(2).]

Year.	Number.	Short title.	Extent of Application.
1	2	3	4
1878	.. VIII	.. The Sea Customs Act, 1878.	Section 19.

East Bengal Regulation No. II of 1953.

**THE CHITTAGONG HILL-TRACTS (PREVENTION
OF CORRUPTION) REGULATION, 1953.**

[11th November, 1953.]

*A Regulation to apply the Prevention of Corruption Act,
1947, to the Chittagong Hill-tracts.*

[I of
1947.

WHEREAS it is expedient to apply the Prevention of
Corruption Act, 1947, to the Chittagong Hill-tracts ;

AND WHEREAS by sub-section (2) of section 92 of the
Government of India Act, 1935, the Governor is em-
powered to make regulations for the peace and good
Government of any area in his Province which is for the
time being an excluded area or a partially excluded area ;

NOW, THEREFORE, the Governor, in exercise of the said
powers and all other powers enabling him in that behalf,
is pleased to make the following regulation, namely:—

1. This Regulation may be called the Chittagong Hill- Short title.
tracts (Prevention of Corruption) Regulation, 1953.

[I of
1947.

2. The Prevention of Corruption Act, 1947, shall Application
apply to the Chittagong Hill-tracts. of Act II of
1947 to
Chittagong
Hill-tracts.

East Bengal Regulation No. I of 1954.
THE CHITTAGONG HILL-TRACTS OPIUM SMOKING
REGULATION, 1954.

[3rd March, 1954.]

*A Regulation to control the practice of smoking prepared
opium in Chittagong Hill-tracts.*

Ben. Act
X of 1932.
Regula-
tion I of
1900.

WHEREAS it is expedient to control the practice of smoking prepared opium in Chittagong Hill-tracts and for that purpose to apply thereto the Bengal Opium Smoking Act, 1932 and also to amend the Chittagong Hill-tracts Regulation, 1900 ;

AND WHEREAS by sub-section (2) of section 92 of the Government of India Act, 1935, the Governor is empowered to make regulation for the peace and good Government of any area in his Province which is for the time being an excluded area or a partially excluded area ;

NOW, THEREFORE, the Governor of East Bengal, in exercise of the said powers and all other powers enabling him in that behalf, is pleased to make the following Regulation :—

1. (1) This Regulation may be called the Chittagong Hill-tracts Opium Smoking Regulation, 1954. Short title and commencement.

(2) It shall come into force on the date of its publication in the *Official Gazette*.

2. The Bengal Opium Smoking Act, 1932 shall apply to the Chittagong Hill-tracts subject to the following amendment, namely :— Application of Bengal Act X of 1932 to the Chittagong Hill-tracts.

Sub-sections (2) and (3) of section 1 shall be *omitted*.

3. In section 13 of the Chittagong Hill-tracts Regulation, 1900, *after* sub-section (2), the following sub-section shall be *added*, namely :— Amendment of section 13 of Regulation I of 1900.

“(3) Nothing in sub-sections (1) and (2) shall apply to or in respect of “prepared opium” as defined in the Bengal Opium Smoking Act, 1932.”

East Bengal Regulation No. II of 1954.
THE CHITTAGONG HILL-TRACTS (LABOUR LAWS)
REGULATION, 1954.

[6th August, 1954.]

A Regulation to apply certain labour laws to the Chittagong Hill-tracts.

WHEREAS it is expedient to apply to the Chittagong Hill-tracts certain enactments regulating labour, trade union and industrial disputes, payment of wages and compensation and employment of women and children in factories and industries;

AND WHEREAS by sub-section (2) of section 92 of the Government of India Act, 1935, the Governor is empowered to make regulations for the peace and good Government of any area in his Province which is for the time being an excluded or a partially excluded area;

Now, THEREFORE, the Governor of East Bengal, in exercise of the said powers and all other powers enabling him in this behalf, is pleased to make the following Regulation, namely:—

1. (1) This Regulation may be called the Chittagong Hill-tracts (Labour Laws) Regulation, 1954. Short title and commencement.

(2) It shall come into force at once.

2. The enactments specified in the Schedule annexed hereto shall, subject to the amendments mentioned in the fourth column thereof, apply to the Chittagong Hill-tracts. Application of certain enactments to the Chittagong Hill-tracts.

SCHEDULE

(See section 2.)

Central Acts.

Year.	Number.	Short title.	Amendments.
1	2	3	4
1923	VIII	The Workmen's Compensation Act, 1923.	(i) Sub-section (3) of section 1 shall be <i>omitted</i> . (ii) In section 2, sub-clause (i) of clause (n) shall be <i>omitted</i> .

(Schedule)

Year.	Number.	Short title.	Amendments.
1	2	3	4
			(iii) In sub-section (5) of section 3, the words "in a Civil Court" shall be <i>omitted</i> .
			(iv) Section 14 shall be <i>omitted</i> .
			(v) Sub-sections (3), (5) and (6) of section 15 shall be <i>omitted</i> .
			(vi) In sub-section (2) of section 19, the word "Civil" shall be <i>omitted</i> .
			(vii) The proviso to sub-section (1) of section 21 shall be <i>omitted</i> .
			(viii) In section 27, <i>for</i> the words "High Court", the words "Provincial Government" shall be <i>substituted</i> .
			(ix) In sub-section (2) of section 28, the words, figures, and commas, "in the Contract Act, 1872, or" shall be <i>omitted</i> .
			(x) In sub-section (1) of section 30, <i>for</i> the words "High Court", the words "Provincial Government" shall be <i>substituted</i> .
			(xi) In section 30A, <i>for</i> the words "High Court", the words "Provincial Government" shall be <i>substituted</i> .
			(xii) In section 31, <i>for</i> the words "an arrear of land revenue", the words "public demand" shall be <i>substituted</i> , and <i>for</i> the words, figures and comma "a public officer within the meaning of section 5 of the Revenue Recovery Act, 1890", the words, figures and comma "a Certificate Officer within the meaning of clause (3) of section 3 of the Bengal Public Demands Recovery Act, 1913" shall be <i>substituted</i> .

of 1954.]

(Schedule.)

Year.	Number.	Short title.	Amendments.
1	2	3	4
			(xiii) In Schedule II,—
			(a) In clause (i), the words and comma “on a railway,” shall be <i>omitted</i> .
			(b) In clause (vii), the expression “or in the handling or transport within the limits of any port subject to the Ports Act, 1908, of goods which have been discharged from or are to be loaded into any vessel” and the comma preceding it shall be <i>omitted</i> ,
			(c) clause (xii) shall be <i>omitted</i> .
			(d) In clause (xiii), the words and commas “employed as Inspector, mail guard, sorter or van peon in the Railway Mail Service, or” shall be <i>omitted</i> .
			(e) Clause (xiiia) and clause (xx) shall be <i>omitted</i> .
1926	XVI ..	The Trade Unions Act, 1926.	(i) Sub-section (3) of section 1 shall be <i>omitted</i> .
			(ii) In section 11,
			(a) for sub-section (1), the following shall be <i>substituted</i> , namely:—
			“(1) Any person aggrieved by any refusal of the Registrar to register a Trade Union or by the withdrawal or cancellation of a certificate of registration may, within such period as may be prescribed, appeal to the Deputy Commissioner.”
			(b) in sub-section (2) for the words “appellate court”, the words “Deputy Commissioner” shall be <i>substituted</i> .
			(c) for sub-section (3), the following shall be <i>substituted</i> , namely:—
			“(3) For the purpose of an appeal under sub-section (1), the Deputy Commissioner shall, so far as may be,

(Schedule.)

Year.	Number.	Short title.	Amendments.
1	2	3	4
			follow the same procedure and have the same powers as he follows and has when trying a suit for establishment of title to an immovable property, and may direct by whom the whole or any part of the cost of the appeal shall be paid and the manner in which such cost shall be recovered." (d) <i>for</i> sub-section (4), the following shall be <i>substituted</i>, namely:— "(4) In the event of dismissal of an appeal by the Deputy Commissioner, the person aggrieved shall have a right of appeal to the Provincial Government". (iii) In section 18, <i>for</i> the words "Civil Court" twice occurring, the word "Court" shall be <i>substituted</i>. (iv) In the proviso to section 19, <i>for</i> the words "Civil Court", the word "Court" shall be <i>substituted</i>.
1934	XXV	.. The Factories Act, 1934.	(i) Sub-section (3) of section 1 shall be <i>omitted</i>. (ii) In clause (j) of section 2, the expression "but does not include a mine subject to the operation of the Mines Act, 1934" together with the comma preceding it shall be <i>omitted</i>. (iii) In section 3, <i>for</i> the words "Indian Standard Time" twice occurring, the words "East Bengal Standard Time" shall be <i>substituted</i>, and <i>for</i> the words "Five and a half", the word "six" shall be <i>substituted</i>. (iv) In section 10, <i>for</i> sub-section (4), the following shall be <i>substituted</i>, namely:— "(4) The Deputy Commissioner shall be an Inspector <i>ex-officio</i>".

of 1954.]

(Schedule.)

Year.	Number.	Short title.	Amendments.
1	2	3	4

(v) In clause (c) of section 32, the expression "other than railways subject to the Railways Act, 1890" together with the comma preceding it shall be *omitted*.

(vi) In sub-section (1) of section 59A, the expression "but does not include a mine subject to the operation of the Mines Act, 1923" together with the comma preceding it shall be *omitted*.

1936 IV .. The Payment of Wages Act, 1936. (i) Sub-section (3) of section 1 shall *omitted*.

(ii) In sub-section (4) of section 1, the words, brackets and commas "and to persons employed (otherwise than in a factory) upon any railway by a railway administration or, either directly or through a sub-contractor, by a person fulfilling a contract with a railway administration" shall be *omitted*.

(iii) Clause (v) of section 2 shall be *omitted*.

(iv) In the proviso to section 3—

(a) clause (c) shall be *omitted*; and

(b) for the words and commas "the person so named, the person so responsible to the employer, or the person so nominated", the words "the person so named or the person so responsible to the employer" shall be *substituted*.

(v) In sub-section (1) of section 5, the word and comma "railway," twice occurring and sub-section (3) of the said section shall be *omitted*.

(Schedule.)

Year.	Number.	Short title.	Amendments.
1	2	3	4
			(vi) In sub-section (1) of section 7, for the words, brackets, figures and commas "Notwithstanding the provisions of sub-section (2) of section 47 of the Railways Act, 1890 the," the word "The" shall be <i>substituted</i> and in clause (i) of sub-section (2) of the said section, the words, figures and commas "any provident fund to which the Provident Funds Act, 1925, applies or" shall be <i>omitted</i>. (vii) In sub-section (2) of section 8, the words, brackets and comma "or in the case of persons employed upon a railway (otherwise than in a factory), at the prescribed place or places" and in the Explanation under the said section, the word and comma "railway," shall be <i>omitted</i>. (viii) Sub-section (2) of section 14 shall be <i>omitted</i>. (ix) In sub-section (1) of section 15, for the words "other officer with experience as a judge of a Civil Court or", the words "other officer with experience" shall be <i>substituted</i>. (x) In sub-section (1) of section 17, for the words "District Court", the word "Commissioner" shall be <i>substituted</i>. (xi) In section 19, for the word "Court", the word "Commissioner" shall be <i>substituted</i>. (xii) In sub-sections (1) and (2) of section 21, for the words "appellate Court", the words "appellate authority" and in the said sub-section (2), for the words "the authority or Court", the words "such authority" shall be <i>substituted</i>.

of 1954.]

(Schedule.)

Year.	Number.	Short title.	Amendments.
1	2	3	4
			(xiii) In section 24, the words, figures, brackets and comma "Federal Railways (within the meaning of the Government of India Act, 1935)," shall be <i>omitted</i> .
			(xiv) In sub-section (1) of section 26, the words "and Court" shall be <i>omitted</i> .
1938	XXVI	The Employment of Children Act, 1938.	(i) In section 2,— (a) for clause (a), the following shall be <i>substituted</i>, namely:— '(a) "competent authority" means the "Provincial Government"; (b) clause (bb) shall be <i>omitted</i>. (ii) Sub-sections (1) and (2) of section 3 shall be <i>omitted</i>. (iii) In section 3B, the words, figures and comma "after the 1st day of October, 1939" shall be <i>omitted</i>. (iv) In section 3C, for the words and comma "twelfth or fifteenth year, as the case may be", the words "twelfth year" shall be <i>substituted</i>. (v) Section 3D shall be <i>omitted</i>. (vi) Section 3E shall be <i>omitted</i>. (vii) In section 4,— (a) in clause (b), for the words, figure, letter and semi-colon "and section 3E; or" a comma shall be <i>substituted</i>. (b) clause (c) shall be <i>omitted</i>. (viii) Clauses (c), (d), (e) and (g) of sub-section (2) of section 7, and the word figure and letter, "and 3E" occurring in clause (f) of the said sub-section shall be <i>omitted</i>.

(Schedule.)

Year.	Number.	Short title.	Amendments.
1	2	3	4

1947	XIV ..	Industrial Disputes (i) Sub-section (3) of section 1 shall be Act, 1947.	<i>omitted.</i>
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(ii) In section 2,—

(a) in sub-clause (i) of clause (a), the words “by a railway company operating a Federal Railway”, and the words and the comma “or a major port,” shall be *omitted*.

(b) in sub-clause (i) of clause (g), the words “in the Provinces and the Capital of the Federation” shall be *omitted*.

(c) Clause (h), items (i), (vii) and (viii) of clause (n) and clause (o) shall be *omitted*.

(iii) In the proviso to sub-section (3) of section 7, for the words “High Court of the Province in which the Tribunal has or is intended to have its usual place of sitting”, the words “Provincial Government” shall be *substituted*.

(iv) In sub-section (2) of section 35, the word “Civil” shall be *omitted*.

(v) Section 40 shall be *omitted*.

Bengal Act.

1939	IV ..	The Bengal Maternity Benefit Act, 1939.	Sub-section (3) of section 1 shall be <i>omitted</i> .
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East Bengal Regulation No. I of 1955.

THE CHITTAGONG HILL-TRACTS CINEMATO-
GRAPH REGULATION, 1954.

[2nd February, 1955.]

II of
1918.

*A Regulation to apply the Cinematograph Act, 1918, to the
Chittagong Hill-tracts.*

Whereas it is expedient to apply the Cinematograph
Act, 1918, to the Chittagong Hill-tracts ;

26 Geo.
V, Ch. 2.

And Whereas by sub-section (2) of section 92 of the Go-
vernment of India Act, 1935, the Governor is empowered to
make regulations for the good Government of any area in
his Province which is for the time being an excluded or a
partially excluded area ;

Now, Therefore, in exercise of the said powers and
all other powers enabling him in that behalf, the Gover-
nor of East Bengal is pleased to make the following
Regulation :—

1. This Regulation may be called the Chittagong Short title.
Hill-tracts Cinematograph Regulation, 1954.

2. The Cinematograph Act, 1918, together with Rules Application
made thereunder, shall, subject to the modification shown of Act II of
below, apply to the Chittagong Hill-tracts :— 1918 to the
Chittagong
Hill-tracts.

Modification.

Sub-section (3) of section 1 shall be *omitted*.

East Bengal Regulation No. II of 1955.

**THE CHITTAGONG HILL-TRACTS CRIMINAL LAW
(INDUSTRIAL AREAS) REGULATION, 1955.**

[12th April, 1955.]

A Regulation to apply the Bengal Criminal Law (Industrial Areas) Amendment Act, 1942, to the Chittagong Hill-tracts.

Bengal Act IV of 1942. Whereas it is expedient to apply the Bengal Criminal Law (Industrial Areas) Amendment Act, 1942, to the Chittagong Hill-tracts;

26 Geo. V, Ch. 2. And Whereas by sub-section (2) of section 92 of the Government of India Act, 1935, the Governor is empowered to make regulations for the peace and good Government of any area in his Province which is for the time being an excluded area, or a partially excluded area ;

Now, Therefore, the Governor of East Bengal, in exercise of the said powers and all other powers enabling him in that behalf, is pleased to make the following Regulation:—

1. (1) This Regulation may be called the Chittagong Hill-Tracts Criminal Law (Industrial Areas) Regulation, 1955. Short title and commencement.

(2) It shall come into force on the date of its publication in the *Official Gazette*.

Bengal Act IV of 1942. 2. The Bengal Criminal Law (Industrial Areas) Amendment Act, 1942, shall subject to the following modifications, apply to the Chittagong Hill-tracts :— Application of Bengal Act IV of 1942 to the Chittagong Hill-tracts.

Sub-section (2) of section 1 and section 2 shall be *omitted*.

East Pakistan Regulation No. II of 1956.
**THE CHITTAGONG HILL-TRACTS (INDUSTRIAL
 LAWS) REGULATION, 1956.**

[13th June, 1956.]

A regulation to apply certain laws relating to cotton ginning and pressing factories, industrial statistics and employment in industries to the Chittagong Hill-tracts.

WHEREAS it is expedient to apply to the Chittagong Hill-tracts certain enactments relating to cotton ginning and cotton pressing factories, collection of industrial statistics and employment in industrial establishment ;

AND WHEREAS by clause (3) of Article 103 of the Constitution of the Islamic Republic of Pakistan, the Governor is empowered to make regulations for the peace and good Government of the excluded area in his Province ;

Now, Therefore, the Governor of East Pakistan in exercise of the said power and all other powers enabling him in this behalf, is pleased to make the following Regulation, namely :—

1. (1) This Regulation may be called the Chittagong Hill-tracts (Industrial Laws) Regulation, 1956. Short title and commencement.
- (2) It shall come into force at once.
2. The enactments specified in the Schedule below shall, subject to modifications mentioned in the fourth column thereof, apply to the Chittagong Hill-tracts. Application of certain Acts to the Chittagong Hill-tracts.

SCHEDULE

Year.	Number.	Short title.	Modifications.
1925	XII	.. The Cotton Ginning and Pressing Factories Act, 1925.	(i) In section 1, sub-section (3) shall be <i>omitted</i> ; (ii) In section 2, in clause (d), for the words, comma and figures "Indian Factories Act, 1911", the words, comma and figures "Factories Act, 1934" shall be <i>substituted</i> ; (iii) In section 9, in sub-section (1A)— (1) in clause (a), the commas, words, and figures, "the construction of which commenced after the 27th day of February, 1939," shall be <i>omitted</i> ; and

(Schedule.)

Year.	Number.	Short title.	Modifications.
			(2) in clause (b), the commas and words "the construction of which commenced after the last mentioned date," shall be <i>omitted</i> .
1942	XIX	.. The Industrial Statistics Act, 1942.	(i) In section 1, sub-section (3) shall be <i>omitted</i> ; (ii) In section 3, in sub-section (2), <i>after</i> the figures "1934" the words "in its application to the Chittagong Hill-tracts" shall be <i>inserted</i> .
1946	XX	.. The Industrial Employment (Standing Orders) Act, 1946.	In section 2, in clause (e), in sub-clause (ii), <i>after</i> the figures "1934" the words "in its application to the Chittagong Hill-tracts" shall be <i>inserted</i> .

East Pakistan Regulation No. III of 1956.

**THE CHITTAGONG HILL-TRACTS (NURSES)
REGULATION, 1956.**

[26th October, 1956.]

*A Regulation to apply the Bengal Nurses Act, 1934, to the
Chittagong Hill-tracts.*

Bengal
Act X of
1934.

Whereas it is expedient to apply the Bengal Nurses Act, 1934, to the Chittagong Hill-tracts ;

And whereas by clause (3) of Article 103 of the Constitution of the Islamic Republic of Pakistan, the Governor is empowered to make regulations for the peace and good Government of the excluded area in his Province ;

Now, therefore, the Governor of East Pakistan in exercise of the said powers enabling him in this behalf, is pleased to make the following Regulation, namely :—

1. (1) This Regulation may be called the Chittagong Hill-tracts (Nurses) Regulation, 1956.

Short title
and com-
mencement.

(2) It shall come into force at once.

2. The Bengal Nurses Act, 1934, shall apply to the Chittagong Hill-tracts subject to the following omission, namely :—

Application
of Bengal
Act X, of
1934 to the
Chittagong
Hill-tracts.

Sub-sections (2) and (3) of section 1 shall be *omitted*.

East Pakistan Regulation No. I of 1957.

THE CHITTAGONG HILL-TRACTS MOTOR VEHICLES
REGULATION, 1957.

[14th May, 1957.]

A Regulation to apply to the Chittagong Hill-tracts certain enactments relating to Motor Vehicles.

Whereas it is expedient to apply to the Chittagong Hill-tracts the Motor Vehicles Act, 1939, and the Bengal Motor Vehicles Tax Act, 1932;

IV of
1939.
Bengal
Act I of
1932.

And Whereas by clause (3) of Article 103 of the Constitution of the Islamic Republic of Pakistan, the Governor is empowered to make Regulation for the peace and good Government of the excluded area in his Province ;

Now, Therefore, the Governor of East Pakistan, in exercise of the said powers and all other powers enabling him in this behalf, is pleased to make the following Regulation, namely :—

Short title
and com-
mencement.

1. (1) This Regulation may be called the Chittagong Hill-tracts Motor Vehicles Regulation, 1957.

(2) It shall come into force at once.

Application
of certain
Acts to
Chittagong
Hill-tracts.

2. The enactments specified in the schedule below together with all rules made thereunder, shall, subject to the amendments mentioned in the fourth column thereof, apply to the Chittagong Hill-tracts.

SCHEDULE

Central Act.

No.	Year.	Short title.	Amendments.
1	2	3	4
IV	1939	The Motor Vehicles Act, 1939.	1. In section 1, sub-sections (2) and (3) shall be <i>omitted</i> . 2. In section 43, sub-section (4) shall be <i>omitted</i> . 3. Sections 43A, 43B and 43C shall be <i>omitted</i> .

(Schedule.)

No.	Year.	Short title.	Amendments.
1	2	3	4
IV— <i>Contd.</i>	1939— <i>Contd.</i>	The Motor Vehicles Act, 1939— <i>C. ntd.</i>	4. In section 44, in sub-section (2), <i>for</i> the words “or a Regional Transport Authority shall consist of such number of officials and non-officials,” the words and comma “shall consist of such number of officials and non-officials, and a Regional Transport Authority shall consist of such number of persons” shall be <i>substituted</i>.] 5. In section 45, sub-section (2) shall be <i>omitted</i>. 6. In section 102, <i>for</i> the words and commas “Notwithstanding anything contained in section 306 of the Succession Act, 1925, the”, the word “The” shall be <i>substituted</i>. 7. In section 133, sub-section (3) shall be <i>omitted</i>. 8. Section 134 shall be <i>omitted</i>. <i>Bengal Act.</i> 1932 The Bengal Motor Vehicles Tax Act, 1932. 1. In section 1, sub-sections (2) and (3) shall be <i>omitted</i>. 2. In section 2, in clauses (1) and (2), <i>for</i> the words, comma and figures “Indian Motor Vehicles Act, 1914”, the words, comma and figures “Motor Vehicles Act, 1939” shall be <i>substituted</i>. 3. In section 4, in sub-section (1), <i>for</i> figures “1932” the figures “1957” shall be <i>substituted</i>. 4. In section 13A, <i>for</i> the words, comma and figures, “Indian Motor Vehicles Act, 1914”, the words, comma and figures “Motor Vehicles Act, 1939” shall be <i>substituted</i>.

¹This item was substituted and shall be deemed always to have been substituted for the original item 4, by the Chittagong Hill-tracts Motor Vehicles (Amendment) Regulation, 1957 (E. P. Regulation No. III of 1957), section 2.

East Pakistan Regulation No. II of 1957.

**THE CHITTAGONG HILL TRACTS PETROLEUM
REGULATION, 1957.**

[26th October, 1957.]

*A Regulation to apply the Petroleum Act, 1934, to the
Chittagong Hill-tracts.*

XXX of 1934. WHEREAS it is expedient to apply the Petroleum Act, 1934, to the Chittagong Hill-tracts ;

AND WHEREAS by clause (3) of Article 103 of the Constitution of the Islamic Republic of Pakistan, the Governor is empowered to make regulations for the peace and good Government of any area in his Province which is for the time being an excluded area ;

NOW, THEREFORE, the Governor of East Pakistan in exercise of the said power and all other powers enabling him in that behalf, is pleased to make the following Regulation, namely :—

1. (1) This Regulation may be called the Chittagong Hill-tracts Petroleum Regulation, 1957.

Short title
and com-
mencement.

(2) It shall come into force at once.

2. The Petroleum Act, 1934, shall apply to the Chittagong Hill-tracts, subject to the amendments shown below:—

Application
of Act XXX
of 1934 to
the Chitta-
gong Hill-
tracts.

AMENDMENTS.

1. In section 1, sub-section (3) shall be *omitted*.

2. In section 2—

(i) *for* clause (d), the following shall be *substituted*, namely:—

‘(d) “to transport” petroleum means to move petroleum from one place in East Pakistan to another in the Chittagong Hill-tracts and *vice versa*, and includes moving petroleum from one place to another within the area of the Chittagong Hill-tracts.’

(ii) *for* clause (e), the following shall be *substituted*, namely :—

‘(e) “to import” petroleum means to bring it within the area of the Chittagong Hill-tracts.’

3. In section 28, the words, figures and commas “unless section 8 of the Coroner’s Act, 1871, is applicable to the circumstances,” shall be *omitted*.

Amendment
of section 28
of Act XXX
of 1934.

Act IV of
1871.

East Pakistan Regulation No. I of 1958.

THE CHITTAGONG HILL-TRACTS (LAND ACQUISITION) REGULATION, 1958.

[26th July, 1958.]

A Regulation to provide for the acquisition of land in the Chittagong Hill-tracts.

Whereas by a Proclamation dated the 25th day of June, 1958, under Article 193 of the Constitution of the Islamic Republic of Pakistan, the President has assumed to himself all the powers vested in, or exercisable by the Governor of East Pakistan;

AND WHEREAS the President has, in pursuance of sub-clause (i) of clause (c) of the said Proclamation, been pleased to direct by Notification No. 22/11/58—Pol. (I), dated the 4th July, 1958, published in the *Extraordinary Gazette of Pakistan*, dated the 4th July, 1958, that the power vested in, or exercisable by, the Governor under the Constitution shall be exercised by the Governor;

And whereas it is expedient to provide for the acquisition of land in the Chittagong Hill-tracts;

AND WHEREAS by clause (3) of Article 103 of the Constitution of the Islamic Republic of Pakistan, the Governor is empowered to make Regulation for the peace and good Government of the excluded area in his Province;

Now, therefore, the Governor of East Pakistan, in exercise of the said powers and all other powers enabling him in this behalf, is pleased to make the following Regulation, namely:—

1. (1) This Regulation may be called the Chittagong Hill-tracts (Land Acquisition) Regulation, 1958. Short title and commencement.
- (2) It shall come into force at once.
2. In this Regulation, unless there is anything repugnant in the subject or context,— Definitions.

- (a) "Deputy Commissioner" means the Deputy Commissioner of the Chittagong Hill-tracts and includes any officer specially appointed by the Provincial Government to perform all or any of the functions of the Deputy Commissioner under this Regulation;
- (b) "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;
- (c) "person interested" includes all persons claiming an interest in the compensation to be paid on account of the acquisition of land under this Regulation.

(Sections 3, 4.)

Acquisition.

3. (1) When any land held on valid title, which is not resumable under the Chittagong Hill-tracts Regulation, 1900, or the rules made thereunder, is required for any public purpose, the Deputy Commissioner may acquire such land by an order in writing. Regulation I of 1900.

(2) When an order is made under sub-section (1), the Deputy Commissioner shall serve a copy of such order on the person or persons interested :

Provided that if the Deputy Commissioner is of the opinion that the service of the copy of such order on each such person will cause delay in taking possession of the land, he may dispense with such service and cause a public notice of such order to be given at convenient places in the locality.

(3) On and from the date of service of a copy of the order or publication of a notice under sub-section (2), the land so acquired shall vest absolutely in the Provincial Government free from all incumbrances and the Deputy Commissioner may take possession of such land by using such force as may be necessary.

Compensation.

4. (1) When any land is acquired under section 3, the Provincial Government shall pay compensation therefor as may be determined by the Deputy Commissioner and in determining the amount of such compensation, the Deputy Commissioner shall take into consideration,—

firstly, the market value of the land on the date of the order of acquisition, but he shall not take into consideration the changes in the value of the land resulting from the project to which the acquisition relates ;

secondly, the damage sustained by the person interested by reason of the taking of any structures, bamboos, trees or standing crops which may be on the land at the time of the Deputy Commissioner's taking possession thereof ;

thirdly, the damage, if any, sustained by the person interested at the time of the Deputy Commissioner's taking possession of the land by reason of severing such land from his other land ;

fourthly, the damage, if any, sustained by the person interested at the time of the Deputy Commissioner's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings ;

of 1958.]

(Sections 5, 6.)

fifthly, if in consequence of the acquisition of the land by the Deputy Commissioner the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change; and

sixthly, the damage, if any, *bona fide* resulting from diminution of the profits of the land between the time of the service of a copy of the order or publication of the notice under sub-section (2) of section 3 and the time of the Deputy Commissioner's taking possession of the land.

(2) In addition to the market value of the land, as above provided, the Deputy Commissioner shall, in every case, award a sum of fifteen per centum on such market value, in consideration of the compulsory nature of the acquisition.

5. (1) An appeal against an order made by the Deputy Commissioner determining the compensation under section 4 shall, if presented within thirty days of the date of service of the notice of such determination, lie to the Commissioner of Chittagong Division. **Appeal.**

(2) The Board of Revenue may, either on its own motion or on application, revise any order passed by the Commissioner under sub-section (1).

6. The Provincial Government may make rules for carrying out the purposes of this Regulation. **Power to make rules.**

East Pakistan Regulation No. 1 of 1959.

**THE CHITTAGONG HILL-TRACTS GOVERNMENT
LANDS AND BUILDINGS (RECOVERY OF POSSES-
SION) REGULATION, 1959.**

[9th November, 1959].

A Regulation to apply the East Bengal Government Lands and Buildings (Recovery of Possession) Act, 1952, to the Chittagong Hill-Tracts.

**E. B. Act
X of 1953.** Whereas it is expedient to apply the East Bengal Government Lands and Buildings (Recovery of Possession) Act, 1952, to the Chittagong Hill Tracts ;

Now, therefore, in pursuance of the Presidential Proclamation of the seventh day of October, 1958, and in exercise of all powers enabling him in that behalf, the Governor of East Pakistan is pleased to make the following Regulation, namely :—

1. (1) This Regulation may be called the Chittagong Hill-Tracts Government Lands and Buildings (Recovery of Possession) Regulation, 1959. **Short title and commencement.**

(2) It shall come into force at once.

2. The East Bengal Government Lands and Buildings (Recovery of Possession) Act, 1952 (hereinafter referred to as the said Act), and the rules made thereunder shall, subject to the following modifications, apply and shall be deemed to have applied with effect from the 5th day of May, 1959 to the Chittagong Hill-Tracts, namely:— **Application of East Bengal Act X of 1953 to the Chittagong Hill-tracts.**

Amendments.

1. Sub-section (2) of section I of the said Act shall be *omitted*. **Amendment of section I of East Bengal Act X of 1953.**

2. For clause (d) of section 2 of the said Act, the following shall be *substituted*, namely:— **Amendment of section 2 of East Bengal Act X of 1953.**

Bengal Regulation I of 1900. "(d) the word 'lease' shall have the same meaning as in the rules made under section 18 of the Chittagong Hill-tracts Regulation, 1900, and the word 'lessee' shall be construed accordingly and shall also include his heirs, assigns, legal representatives and all persons inducted by him into the demised land."

[E. P. Reg. No. I of 1959.]

(Sections 3—5.)

Amendment
of section 3
of East Ben-
gal Act X of
1953.

3. In section 3 of the said Act, the words, figures and commas "provisions of the Transfer of Property Act, 1882, or" shall be *omitted*.

Amendment
of section 4
of East Ben-
gal Act X of
1953.

4. In section 4 of the said Act,—

- (i) in sub-section (1), *for* the words, figures and comma "in section 111 of the Transfer of Property Act, 1882", the words and comma "in the lease, if any" shall be *substituted* ; and
- (ii) in sub-section (2), the words, figures and comma "or in any of the modes mentioned in section 111 of the Transfer of Property Act, 1882" shall be *omitted*.

Amendment
of section 10
of East Ben-
gal Act X of
1953.

5. Section 10 of the said Act shall be *omitted*.

East Pakistan Regulation No. II of 1959.

**THE CHITTAGONG HILL-TRACTS EMPLOYMENT
(RECORD OF SERVICES) REGULATION, 1959.**

[28th December, 1959].

A

REGULATION

*to apply the Employment (Record of Services) Act, 1951 to
the Chittagong Hill Tracts.*

Act XIX
of 1952.

WHEREAS it is expedient to apply the Employment (Record of Services) Act, 1951 to the Chittagong Hill-Tracts;

Now, therefore, in pursuance of the Presidential Proclamation of the seventh day of October, 1958, and in exercise of all powers enabling him in that behalf, the Governor of East Pakistan is pleased to make the following Regulation, namely:—

1. (1) This Regulation may be called the Chittagong Hill-Tracts Employment (Record of Services) Regulation, 1959. Short title and commencement,

(2) It shall come into force at once.

2. The Employment (Record of Services) Act, 1951 (hereinafter referred to as the said Act), and the rules made thereunder shall, subject to the following amendments apply to the Chittagong Hill-Tracts, namely:— Application of Act XIX of 1952 to the Chittagong Hill-Tracts.

Amendments.

Sub-sections (2) and (4) of section 1 of the said Act shall be omitted. Amendment of section 1 of Act XIX of 1952.

East Bengal Ordinance II of 1956.

**THE EAST BENGAL SCHOOL TEXT-BOOK
(AMENDMENT) ORDINANCE, 1956.**

[21st March, 1956.]

Whereas the Provincial Legislature is not in session and the Governor is satisfied that it is urgently necessary, in the public interest, to amend the East Bengal School Text-Book Act, 1954 in the manner hereinafter appearing and that immediate action should be taken for that purpose; E. B. Act
XIV of
1954.

The Governor is pleased, in exercise of the power conferred by sub-section (1) of section 88 of the Government of India Act, 1935, to make and promulgate the following Ordinance, namely:— 26 Geo.
V. Ch. 2.

Short title
and com-
mencement.

1. (1) This Ordinance may be called the East Bengal School Text-Book (Amendment) Ordinance, 1956.

(2) It shall be deemed to have come into force on the first day of July, 1955.

2 to 6. [Repealed by the East Pakistan Repealing and Amending Ordinance, 1960 (E. P. Ord. No. XXVIII of 1960), Second Schedule.]

East Pakistan Ordinance No. XLI of 1958.

**THE EAST PAKISTAN ESSENTIAL SERVICES
(SECOND) ORDINANCE, 1958.**

[16th July, 1958.]

WHEREAS by a Proclamation dated the 25th day of June, 1958, under Article 193 of the Constitution of the Islamic Republic of Pakistan, the President has assumed to himself all the powers vested in, or exercisable by the Governor of East Pakistan;

AND WHEREAS the President has, in pursuance of sub-clause (i) of clause (c) of the said Proclamation, been pleased to direct by notification No. 22/11/58-Pol. (I), dated the 4th July, 1958 published in the *Extraordinary Gazette of Pakistan*, dated the 4th July, 1958 that the powers vested in or exercisable by the Governor under the Constitution shall be exercised by the Governor;

AND WHEREAS it is necessary to provide for powers for the maintenance of services essential to the life of the community and for the maintenance of public order ;

AND WHEREAS the National Assembly is not in session and the Governor is satisfied that the circumstances exist which render it necessary for him to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by Article 102 of the Constitution of the Islamic Republic of Pakistan and of all other powers enabling him in that behalf, the Governor is pleased to make and promulgate the following Ordinance, namely :—

1. (1) This Ordinance may be called the East Pakistan Essential Services (Second) Ordinance, 1958.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of East Pakistan.

(3) It shall come into force at once.

2. In this Ordinance unless there is anything repugnant in the subject or context,—

Definition.

“employment” includes employment of any nature whether paid or unpaid.

3. This Ordinance shall apply to all employments under the Provincial Government, and to such other employment or class of employment under any local authority, as the Provincial Government, being of the opinion that such employment or class of employment is essential for the maintenance of public order or for maintaining services necessary

Application
of the Ordinance.

The Ordinance was applied to the Chittagong Hill-tracts with effect from the 31st July, 1958 vide Notification No. 7148-Poll., dated the 31st July, 1958, published in the *Dacca Gazette, Extraordinary*, dated the 31st July, 1958, Part I, p. 1645.

768 *The East Pakistan Essential Services (Second)*
 Ordinance, 1958.
 [E. P. Ord. No. XLI of 1958.]

(Sections 4—7.)

to the life of the community, may, by notification in the *Official Gazette*, declare to be an employment or class of employment to which this Ordinance applies.

Offence. 4. Any person engaged in any employment under the Provincial Government or in any employment or class of employment to which this Ordinance applies who,—

(a) disobeys any lawful order given in course of such employment, or attempts to persuade any person to disobey any such order, or

(b) without reasonable excuse abandons such employment or absents himself from work,

shall be guilty of an offence under this Ordinance.

Explanation.—A person abandons his employment within the meaning of this section who, notwithstanding that it is an express or implied term of his contract of employment that he may terminate his employment on giving notice to his employer of his intention to do so, so terminates his employment without the previous consent of his employer.

Punishment. 5. Any person found guilty of an offence under this Ordinance shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

Jurisdiction and mode of trial. 6. (1) No Magistrate other than a Magistrate of the first class shall try an offence under this Ordinance.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence under this Ordinance shall be cognizable. **Act V 1898.**

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, a Magistrate trying an offence under this Ordinance, shall have power to try such offence summarily and in trying such offences such Magistrates shall follow the procedure laid down in the Code of Criminal Procedure, 1898, for summary trial of summons cases. **Act V 1898.**

Repeal and saving. 7. (1) The East Pakistan Essential Services Ordinance, 1958, is hereby repealed. **E. P. C XXIX 1958.**

(2) Any order passed, any action taken or anything done under the provision of the said Ordinance shall continue in force and shall be deemed to have been passed, taken or done under the corresponding provision of this Ordinance.

East Pakistan Ordinance No. XLV of 1958.

THE BENGAL JUTE REGULATION (EXTENSION TO
SYLHET) ORDINANCE, 1958.

[19th July, 1958.]

WHEREAS by a Proclamation dated the 25th day of June, 1958, under Article 193 of the Constitution of the Islamic Republic of Pakistan, the President has assumed to himself all the powers vested in, or exercisable by the Governor of East Pakistan;

AND WHEREAS the President has, in pursuance of sub-clause (i) of clause (c) of the said Proclamation, been pleased to direct by notification No. 22/11/58-Pol. (I), dated the 4th July, 1958 published in the *Extraordinary Gazette of Pakistan*, dated the 4th July, 1958 that the power vested in or exercisable by the Governor under the Constitution shall be exercised by the Governor ;

Ben. Act
V of 1940.

AND WHEREAS it is expedient to extend the provisions of the Bengal Jute Regulation Act, 1940 to the district of Sylhet and for the purpose to amend it in the manner hereinafter appearing ;

AND WHEREAS the National Assembly is not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by Article 102 of the Constitution of the Islamic Republic of Pakistan and of all other powers enabling him in that behalf, the Governor of East Pakistan is pleased to make and promulgate the following Ordinance, namely :—

1. (1) This Ordinance may be called the Bengal Jute Regulation (Extension to Sylhet) Ordinance, 1958.

Short title
and com-
mencement.

(2) It shall come into force at once.

2. The Bengal Jute Regulation Act, 1940, and all the rules framed thereunder, shall apply to the district of Sylhet.

Application
of Ben. Act
V of 1940 to
the district
of Sylhet.

3. In section 1 of the said Act, for sub-section (2), the following shall be substituted, namely :—

Amendment
of section 1
of Ben. Act
V of 1940.

“(2) It extends to the whole of East Pakistan.”

4. In section 2 of the said Act, in clause (1), after the word “includes”, the words “the Deputy Commissioner and” shall be inserted.

Amendment
of section 2
of Ben. Act
V of 1940.

of 1958.]

(Sections 6, 7.)

or cause to be deposited such cash with the company's bankers.

(2) Until such time as the official liquidator appointed under section 7 takes into his custody or under his control all the books, documents and assets of the company, including actionable claims to which the company is or appears to be entitled, every officer and agent acting for or on behalf of the company shall preserve all such books, documents, assets, property, effects and claims, and shall be jointly and severally liable for any loss or damage.

(3) Any person who, with intent to evade the provisions of this Ordinance, conceals, destroys, mutilates or defaces any books, documents, assets, property, effects or claims, or knowingly allows such concealment, destruction, mutilation or defacement to be caused, shall, without prejudice to any liability to which he may be subject under sub-section (2), be punishable with imprisonment for a term which may extend to three years or with fine or with both.

6. (1) Within three days of the commencement of this Ordinance, or within such period as the Registrar may allow, the manager of an undesirable company shall submit to the Registrar a statement showing the assets and liabilities of the company.

Statement of
assets, etc.,
to be sub-
mitted to
Registrar.

(2) Any one who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

7. (1) As soon as may be after receipt of the statement submitted under sub-section (1) of section 6, the Registrar shall make a petition to the Court for winding up the company, and thereupon the Court shall make an order for the winding up of the company and, unless the Registrar nominates an officer for the purpose, shall appoint the Registrar as the official liquidator for such winding up.

Winding up
of undesir-
able compa-
nies.

(2) If the Registrar is unable to act as official liquidator and nominates an officer to act as such liquidator, the Court shall appoint that officer as the official liquidator for the winding up of the company.

(3) After the official liquidator has been appointed under this section, the provisions of the Companies Act, 1913, relating to the winding up by Court of a registered company shall *mutatis mutandis* apply in relation to the winding up of the company in respect of which the petition has been made under sub-section (1).

(Sections 8—12.)

**Dissolution
of undesirable
companies.**

8. When the affairs of an undesirable company have been completely wound up, the company shall be deemed to have been dissolved under sub-section (1) of section 194 of the Companies Act, 1913.

**VII of
1913.**

**Power to
call for
certain infor-
mation, etc.**

9. (1) Where the Registrar has reason to believe that a company is an undesirable company or that an undesirable company is carrying on business in contravention of section 4, he or any officer authorized by him in this behalf may—

- (a) direct any person to give such information in his possession with respect to any business carried on by that company as he may demand;
- (b) inspect or cause to be inspected any book or other document belonging to or under the control of the company or any officer thereof;
- (c) enter and search or authorize any person to enter and search any premises, and seize or authorize any person to seize any book or other document belonging to or under the control of the company or any officer thereof.

(2) If the Registrar is satisfied that a company is an undesirable company or that an undesirable company is carrying on business in contravention of section 4, he shall by order in writing, direct the manager of the company to hand over the management of the company to a person to be appointed by the Registrar for the purpose, and the manager shall forthwith hand over the management of the company to such person.

(3) The person to whom management is handed over in pursuance of sub-section (2) shall be deemed to be the manager of the company, and the other provisions of this Ordinance shall apply accordingly.

(4) Whoever fails to comply with any direction given under sub-section (1) or sub-section (2) shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

3

**Offences to
be cogniza-
ble and non-
bailable.**

10. Notwithstanding anything contained in the Code of Criminal Procedure, 1893, any offence punishable under this Ordinance shall be cognizable and non-bailable.

**Act V of
1898.**

**Cognizance
by Court
with consent
of Registrar.**

11. No Court shall take cognizance of any offence under this Ordinance except with the previous consent of the Registrar in writing.

**Summary
trial.**

12. Any Magistrate or bench of Magistrates empowered for the time being to try in a summary way the offences

of 1958.]

(Sections 13, 14.)

Act V of
1898.

specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898, may, on application in this behalf being made by the prosecution, try in accordance with the provisions contained in sections 262 to 265 of the said Code any offence punishable under this Ordinance.

13. The Provincial Government may make rules to carry out the purposes of this Ordinance, and such rules may provide that the breach of any of them shall be punishable with imprisonment for a term not exceeding one year or with fine not exceeding one thousand rupees or with both. **Power to make rules.**

E. P. Ord.
No. XXXI
of 1958.

14. (1) The East Pakistan Undesirable Companies Ordinance, 1958, is hereby repealed. **Repeal and savings.**

(2) Notwithstanding such repeal, any order passed or anything done or any action taken or any proceeding commenced under the said Ordinance shall continue in force and shall be deemed to have been passed, done, taken or commenced, as the case may be, under the corresponding provision of this Ordinance.

East Pakistan Ordinance No. LI of 1958.

THE EAST PAKISTAN COMMISSIONS OF INQUIRY
(SECOND) ORDINANCE, 1958.

[22nd July, 1958.]

Whereas by a Proclamation dated the 25th day of June, 1958, under Article 193 of the Constitution of the Islamic Republic of Pakistan, the President has assumed to himself all the powers vested in, or exercisable by, the Governor of East Pakistan;

And whereas the President has, in pursuance of sub-clause (i) of clause (c) of the said Proclamation, been pleased to direct by notification No. 22/11/58-Pol. (I), dated the 4th July, 1958, published in the *Extraordinary Gazette of Pakistan*, dated the 4th July, 1958 that the power vested in or exercisable by the Governor under the Constitution shall be exercised by the Governor;

And whereas it is expedient to provide for the appointment of Commissions of Inquiry and for vesting such Commissions with certain powers;

And whereas the National Assembly is not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the power conferred by Article 102 of the Constitution of the Islamic Republic of Pakistan and of all other powers enabling him in that behalf, the Governor is pleased to make and promulgate the following Ordinance, namely:—

1. (1) This Ordinance may be called the East Pakistan Commissions of Inquiry (Second) Ordinance, 1958. Short title, extent and commencement.
(2) It extends to the whole of East Pakistan.
(3) It shall come into force at once.
2. In this Ordinance unless there is anything repugnant in the subject or context,— Definitions.
 - (a) "Commission" means a Commission of Inquiry appointed or deemed to have been appointed under section 3;
 - (b) "prescribed" means prescribed by rules made under section 12; and
 - (c) "President" means the President of the Commission.

(Sections 3—5.)

Appointment
of Commis-
sion.

3. (1) The Provincial Government may, if it is of opinion that it is necessary so to do, by notification in the *Official Gazette*, appoint a Commission of Inquiry for the purpose of making an inquiry into any definite matter of public importance and performing such functions and within such time as may be specified in the notification, and the Commission so appointed shall make the inquiry and perform the functions accordingly.

(2) The Commission may consist of one or more members appointed by the Provincial Government, and where the Commission consist of more than one member, one of them may be appointed as the President thereof.

Powers of
Commission.

4. The Commission shall have the powers of a Civil Court, while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

Act V of
1908.

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any documents;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents.

Additional
powers of
Commission.

5. (1) Where the Provincial Government is of opinion that, having regard to the nature of the inquiry to be made and other circumstances of the case, all or any of the provisions of sub-section (4) or sub-section (5) or sub-section (6) of this section should be made applicable to a Commission, the Provincial Government may, by notification in the *Official Gazette*, direct that all or such of the said provisions as may be specified in the notification shall apply to that Commission and on the issue of such a notification, the said provisions shall apply accordingly.

(2) The Commission shall have power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject-matter of the inquiry.

(3) The President or any officer, not below the rank of a Gazetted Officer, specially authorised in this behalf by the President, may enter any building or place where the Commission has reason to believe that any books of account or other documents relating to the subject-matter of the inquiry may be found, and may seize any such

(Sections 6—8.)

books of account or documents or take extracts or copies therefrom subject to the provisions of section 102 and section 103 of the Code of Criminal Procedure, 1898, in so far as they may be applicable.

Act V of 1898.

(4) The Commission shall be deemed to be a Civil Court and when any offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Pakistan Penal Code, is committed in the view or presence of the Commission, the Commission may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1898, forward the case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case had been forwarded to him under section 482 of the Code of Criminal Procedure, 1898.

Act XLV of 1860.

Act V of 1898.

Act V of 1898.

Act XLV of 1860.

(5) Any proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Pakistan Penal Code.

(6) The Commission shall have the powers of a Civil Court, while trying a suit under the Code of Civil Procedure, 1908, in respect of requisitioning any public record or copy thereof from any court or office.

Act V of 1908.

6. No statement made by a person in the course of giving evidence before the Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement:

Statement made by the persons to the Commission.

Provided that the statement—

- (a) is made in reply to a question which he is required by the Commission to answer; or
- (b) is relevant to the subject-matter of inquiry.

7. The Provincial Government may, if it is of opinion that the continued existence of a Commission is unnecessary, by notification in the *Official Gazette*, declare that the Commission shall cease to exist from such date as may be specified in this behalf in such notification, and thereupon, the Commission shall cease to exist.

Commission to cease to exist when notified.

8. The Commission shall, subject to any rules that may be made in this behalf, have power to regulate its own procedure (including the fixing of places and times of its sittings and deciding whether to sit in public or in private) and may act notwithstanding the temporary absence of any member or the existence of a vacancy among its members.

Procedure to be followed by the Commission.

[E. P. Ord. No. LI of 1958.]

(Sections 9—13.)

Protection of
action taken
in good faith.

9. No suit or other legal proceedings shall lie against the Provincial Government, the Commission or any member thereof, or any person acting under the direction either of the Provincial Government or of the Commission in respect of anything which is in good faith done or intended to be done in pursuance of this Ordinance or of any rules or orders made thereunder or in respect of the publication, by or under the authority of the Provincial Government or the Commission, of any report, paper or proceedings.

Members,
etc., to be
public
servants.

10. Every member of the Commission and every officer appointed or authorised by the Commission to exercise functions under this Ordinance shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code.

Act XLV
of 1860.

Ordinance to
apply to In-
quiry Com-
missions set
up before the
promulgation
of the Ordi-
nance.

11. Where any Commission has been appointed under any Resolution of the Provincial Government for the purpose of making an inquiry into any definite matter of public importance before the coming into force of this Ordinance, such Commission shall be deemed to be a Commission appointed under section 3 and the provision of this Ordinance shall apply accordingly.

Power to
make rules.

12. The Provincial Government may, by notification in the *Official Gazette*, make rules to carry out the purposes of this Ordinance.

Repeal and
savings.

13. (1) The East Pakistan Commission of Inquiry Ordinance, 1958, is hereby repealed.

E.P. Ord.
XXVI of
1958.

(2) Notwithstanding such repeal any orders passed or appointments made, any notification issued or any direction given or anything done or any action taken or any proceeding commenced or any penalty imposed under any provision of the said Ordinance and in force immediately before the commencement of this Ordinance shall continue in force and shall be deemed to have been passed, made, issued, given, done, taken, commenced or imposed, as the case may be, under the corresponding provision of this Ordinance as if this Ordinance had commenced on the date of coming into force of that Ordinance.

East Pakistan Ordinance No. LIV of 1958.

THE SYLHET RURAL PRIMARY EDUCATION (SUPPLEMENTARY PROVISIONS) (SECOND) ORDINANCE, 1958.

[22nd July, 1958.]

WHEREAS by a Proclamation dated the 25th day of June, 1958, under Article 193 of the Constitution of the Islamic Republic of Pakistan, the President has assumed to himself all the powers vested in, or exercisable by the Governor of East Pakistan;

AND WHEREAS the President has, in pursuance of sub-clause (i) of clause (c) of the said Proclamation, been pleased to direct by notification No. 22/11/58/Pol. (I), dated the 4th July, 1958 published in the *Extraordinary Gazette of Pakistan*, dated the 4th July, 1958 that the power vested in or exercisable by the Governor under the Constitution shall be exercised by the Governor;

AND WHEREAS it is expedient to provide for direct administration of primary education by the Government in the district of Sylhet as has been done in other districts except Chittagong Hill Tracts, and to that end to supplement the law relating to primary education in the district of Sylhet, in the manner hereinafter appearing;

AND WHEREAS the National Assembly is not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by Article 102 of the Constitution of the Islamic Republic of Pakistan and of all other powers enabling him in that behalf, the Governor is pleased to make and promulgate the following Ordinance, namely:—

1. (1) This Ordinance may be called the Sylhet Rural Primary Education (Supplementary Provisions) (Second) Ordinance, 1958.

Short title, extent and commencement.

(2) It extends to the whole of the district of Sylhet except the areas within Municipalities constituted under the Assam Municipal Act, 1923.

Assam Act I of 1923.

(3) It shall come into force at once.

Assam Act I of 1915. B.B. Act II of 1952.

2. Notwithstanding anything contained in the Assam Local Self-Government Act, 1915, and the Compulsory Primary Education (Sylhet) Act, 1951, to the contrary,—

Powers of the Local Boards in respect of Primary Education to cease and vesting of the same in the Deputy Commissioner, Sylhet.

(1) All powers conferred or duties imposed on the Local Boards of the district of Sylhet in connection with primary education shall cease with effect from the date of coming into force of this Ordinance and shall vest in the Deputy Commissioner, Sylhet, to be exercised through

[E. P. Ord. No. LIV of 1958.]

(Sections 3—6.)

the Subdivisional Officer of the Subdivision concerned under the provisions of the said Acts. The Deputy Commissioner of Sylhet shall be responsible to the Provincial Government for the proper discharge of the duties imposed upon him.

- (2) The District Inspector of Schools shall be the Chief Executive Officer for the administration, control and development of primary education in the district and he shall exercise such powers and perform such duties as may be delegated to him by the Deputy Commissioner.
- (3) The Subdivisional Inspector of Schools concerned shall be the Subdivisional Executive Officer for the administration, control and development of primary education in the subdivision and shall exercise such powers and perform such duties under the general supervision and control of the District Inspector of Schools as may be delegated to him by the Deputy Commissioner, Sylhet.

Assets of Local Boards in respect of primary education to vest in the Provincial Government.

3. All assets including movable and immovable properties pertaining to primary education as may be held by the Local Boards shall vest in the Provincial Government with effect from the date of coming into force of this Ordinance.

Unspent grants to be taken over by the Deputy Commissioner.

4. The unspent portion of all grants in respect of primary education made by the Provincial Government to the Local Boards during the current year and previous years (if any) shall be taken over by the Deputy Commissioner and placed with the District Inspector of Schools for expenditure on the head on which the grant was originally made.

Directions for performing specific duties of primary education.

5. Notwithstanding anything contained in any other law for the time being in force, the Provincial Government may give directions to the Deputy Commissioner, Sylhet, or the District Inspector of Schools, Subdivisional Officer or Subdivisional Inspector of Schools to perform specified duties in respect of primary education and he or they shall comply with such directions.

Repeal and savings.

6. (1) The Sylhet Rural Primary Education (Supplementary Provisions) Ordinance, 1958, is hereby repealed.

E.P. Ord.
XXVIII
of 1958.

(2) Notwithstanding such repeal, any direction issued or action taken or proceeding commenced or anything done under the provision of the said Ordinance shall continue in force and shall be deemed to have been issued, taken, commenced or done, as the case may be, under the corresponding provision of this Ordinance.

East Pakistan Ordinance No. LIX of 1958.

THE EAST PAKISTAN TRADE UNIONS (RECOGNITION) (THIRD) ORDINANCE, 1958.

[22nd July, 1958.]

WHEREAS by a Proclamation dated the 25th day of June, 1958, under Article 193 of the Constitution of the Islamic Republic of Pakistan, the President has assumed to himself all the powers vested in, or exercisable by, the Governor of East Pakistan;

AND WHEREAS the President has, in pursuance of sub-clause (i) of clause (c) of the said Proclamation, been pleased to direct by notification No. 22/11/58-Pol. (I), dated the 4th July, 1958, published in the *Extraordinary Gazette of Pakistan*, dated the 4th July, 1958, that the power vested in, or exercisable by, the Governor under the Constitution shall be exercised by the Governor;

AND WHEREAS it is expedient to make provision for recognition of registered Trade Unions;

AND WHEREAS the National Assembly is not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by Article 102 of the Constitution of the Islamic Republic of Pakistan and of all other powers enabling him in that behalf, the Governor of East Pakistan is pleased to make and promulgate the following Ordinance, namely :—

1. (1) This Ordinance may be called the East Pakistan Trade Unions (Recognition) (Third) Ordinance, 1958. Short title, extent and commencement.
- (2) It extends to the whole of East Pakistan.
- (3) It shall come into force at once.
2. In this Ordinance, unless there is anything repugnant in the subject or context,— Definitions.
 - (a) “employer” in relation to an industry means the owner or occupier of the industry including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and includes—
 - (i) in relation to an industry carried by or under the authority of the Provincial Government, the authority prescribed in this behalf, or where no authority is prescribed, the Head of the Department;

The Ordinance was applied to the Chittagong Hill-Tracts with effect from the 25th September, 1958, *vide* notification No.1900-Lab., dated the 13th September, 1958 published in *Dacca Gazette*, dated the 25th September, 1958, Part I, page 1337.

(Sections 3, 4.)

(ii) in relation to an industry carried by or on behalf of a local authority, the Chief Executive Officer of that authority.

(b) "industry" means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen exceeding twenty in number.

(c) "prescribed" means prescribed by rules made under this Ordinance.

(d) all words and expressions used in this Ordinance and defined in the Trade Unions Act, 1926, shall be deemed to have meanings respectively assigned to them by that Act. xvi of 1926.

Recognition
by agree-
ment.

3. (1) Where an employer agrees to recognise a registered Trade Union, a memorandum of agreement signed by the employer and the officers of the registered Trade Union or their authorised representatives, may be presented to the Registrar who shall, if he is satisfied after making such enquiries as he thinks fit, that the registered Trade Union is representative of all workmen employed in the industry concerned, record the memorandum in a register in the prescribed manner.

(2) While such an agreement is in force, the registered Trade Union shall, in its relation with the employer with whom the agreement has been made, have all the rights of a registered Trade Union recognised under the provision of this Ordinance and shall for all other purposes be deemed to be a registered Trade Union recognised under this Ordinance.

Application
to and grant
of recog-
nition by the
Registrar.

4. (1) Where a registered Trade Union having applied for recognition to an employer has failed to obtain recognition within a period of one month from the date of making such application, it may apply in writing, setting out such particulars as may be prescribed, to the Registrar for recognition by that employer.

(2) The Registrar may call for further information for the purpose of ascertaining whether the registered Trade Union is entitled to recognition by the employer and if the Trade Union fails to supply the required information within such reasonable time as may be granted, the Registrar may reject the application. The Registrar shall notify the employer and all registered Trade Unions in the industry concerned of the application made to him under sub-section (1).

(Section 4.)

(3) The Registrar, on receipt of an application under sub-section (1), may conduct a secret ballot to be presided over by the Registrar or his authorised officer and if such registered Trade Union represents the majority of the workmen voting at the poll and if it has completed one year from the date of its registration, the Registrar shall make an order directing the employer to recognise such registered Trade Union and may, where the recognition is to be by an association of employers, further direct, by the same or subsequent order, recognition by every member of the association:

Provided that if any other registered Trade Union in the industry concerned applies to the Registrar for placing its name on the ballot paper, the Registrar shall place its name on the ballot paper accordingly :

Provided further that where less than fifty *per centum* of the workmen on the roll of the industry concerned vote at the poll, the poll shall be void and a new poll may be held at any time after the expiry of three months from the date of such poll:

Provided further that the Provincial Government, when it considers that a representative registered Trade Union does not exist in the industry concerned, may waive the requirement that a registered Trade Union must have completed one year from the date of its registration.

(4) The order directing recognition of a registered Trade Union by an employer and the recognition of a registered Trade Union by the employer by agreement under section 3 shall remain in force for a period of three years from the date of the order directing such recognition or the date of recording the memorandum of agreement under section 3, as the case may be, subject to such conditions as may be prescribed.

(5) Notwithstanding the provisions of sub-section (4), on the expiry of the period of one year from the date of recognition of any union under section 3 or section 4, a registered Trade Union in the industry concerned may apply to the Registrar for recognition on depositing with him a fee at the rate of two annas per workman it claims to represent, subject to a maximum of one thousand rupees and a minimum of twenty-five rupees, and the Registrar may conduct a secret ballot to determine if such registered Trade Union represents the majority of the workmen voting at the poll and such ballot shall be held subject to and in accordance with the foregoing provisions of this section.

(6) On the result of the secret ballot held under sub-section (5), the Registrar shall issue orders directing the

(Sections 5, 6.)

employer to recognise the Trade Union securing majority of votes polled, by cancelling the recognition already granted to a registered Trade Union under sub-section (1) of section 3 or under sub-section (3) of section 4.

(7) The recognition given under sub-section (6) shall remain in force for a period of three years from the date of issue of such order.

Rights of
recognised
registered
Trade
Unions.

5. (1) The executive of a registered Trade Union recognised under the provision of this Ordinance shall be entitled to negotiate with employers in respect of matters connected with the employment or non-employment or the terms of employment or the conditions of labour of all or any of its members, and the employer shall receive and send replies to letters sent by the executive on, and grant interviews to that body regarding, such matters.

(2) The executive of a registered Trade Union recognised under this Ordinance shall be entitled to display notice of Trade Union in any premises where its members are employed and the employer shall afford the executive reasonable facilities for that purpose.

(3) A registered Trade Union recognised under this Ordinance shall be entitled to office accommodation to be provided by the employer at or near the premises of the industry concerned free of rent on such conditions as may be prescribed.

Withdrawal
of recogni-
tion.

6. (1) Where the recognition of a registered Trade Union has been directed under sub-section (3) of section 4 or where the employer has mutually agreed to recognise a registered Trade Union under sub-section (1) of section 3, the employer may apply in writing to the Registrar for withdrawal of the recognition on any of the following grounds, namely :—

(a) that the members of such Trade Union have resorted to any strike which is illegal under the Industrial Disputes Act, 1947;

XIV o
1947.

(b) that the members of such Trade Union have resorted to any action in contravention of any settlement or award which is binding under section 19 of the Industrial Disputes Act, 1947.

XIV of
1947.

(2) On receipt of an application under sub-section (1) the Registrar shall, unless he thinks fit to reject the application summarily, serve notice in prescribed manner on the Trade Union, to show cause why its recognition should not be withdrawn.

of 1958.]

(Sections 7—10.)

XIV of 1947. (3) If after giving reasonable opportunity to the Trade Union to show cause, the Registrar is satisfied that the members of such Trade Union have resorted to any strike which is illegal under the Industrial Disputes Act, 1947, or that the members of such Trade Union have resorted to any action in contravention of any settlement or award which is binding under section 19 of the Industrial Disputes Act, 1947, he may make an order declaring that the recognition of such Trade Union has been withdrawn.

7. (1) Any person aggrieved by an order of the Registrar passed under section 4 or section 6 may, within 30 days from the date of passing of the order, appeal to the District Judge of the District whose decision shall be final. Appeals.

(2) Where the Registrar of Trade Unions has failed to dispose of the memorandum of agreement under sub-section (1) of section 3, or the application for recognition under sub-section (3) or sub-section (5) of section 4, or the application for cancellation of recognition under sub-section (3) of section 6, as the case may be, within two months from the date of their receipt, the party aggrieved may lodge a complaint, against the Registrar, with District and Sessions Judge, whose decision shall be final.

V of 1908. (3) For the purpose of hearing an appeal under sub-section (1), or a complaint under sub-section (2), the District Judge shall, so far as may be, follow the same procedure and shall have the same power as he follows when hearing an appeal under the Code of Civil Procedure, 1908, and may direct by whom the whole or any part of the costs of the appeal shall be paid, and such cost shall be recovered as if they have been awarded in a suit under the said Code.

XVI of 1926. 8. The provisions of this Ordinance shall be in addition to and not in derogation of the provisions of the Trade Unions Act, 1926. Additional provisions.

9. The Provincial Government may make rules for carrying out the purposes of this Ordinance, but no such rule shall be made unless a draft of the same has been first published in the *Official Gazette* and a period of 30 days is allowed to interested parties to submit objections and the same have been taken into account by the Provincial Government. Any rules made shall be laid before the next session of the Provincial Assembly. Power to make rules.

10. Whoever contravenes any of the provisions of this Ordinance or any Rule made thereunder or fails to carry out any orders passed by the Registrar under the Ordinance or Rules thereunder, shall be punishable with fine which Penalty.

(Sections 11, 12.)

may extend to one thousand rupees and in the case of continuing default with an additional fine which may extend to one hundred rupees for each day after the first during which the default continues.

Cognizance
of offences.

11. (1) No Court inferior to that of a Magistrate of the First Class shall try any offence under the preceding section.

(2) No Court shall take cognizance of any offence under the preceding section, save on complaint made by or under the authority of the Registrar.

Repeal and
savings.

12. (1) The East Pakistan Trade Unions (Recognition) (Second) Ordinance, 1958, is hereby repealed.

E. P.
Ord. No.
XXI of
1958.

(2) Any order passed or anything done or any action taken or any rules made under the provisions of the said Ordinance shall continue in force and shall be deemed to have been passed, done, taken, or made as the case may be, under the corresponding provisions of this Ordinance as if this Ordinance had come into force on the date of commencement of the said Ordinance.

East Pakistan Ordinance No. LXIV of 1958.

**THE CODE OF CRIMINAL PROCEDURE (EAST
PAKISTAN THIRD AMENDMENT) ORDINANCE,
1958.**

[26th July, 1958.]

WHEREAS by a Proclamation dated the 25th day of June, 1958, under Article 193 of the Constitution of the Islamic Republic of Pakistan, the President has assumed to himself all the powers vested in, or exercisable by, the Governor of East Pakistan;

AND WHEREAS the President has, in pursuance of sub-clause (i) of clause (c) of the said Proclamation, been pleased to direct by notification No. 22/11/58-Pol. (I), dated the 4th July, 1958 published in the *Extraordinary Gazette of Pakistan*, dated the 4th July, 1958 that the power vested in, or exercisable by, the Governor under the Constitution shall be exercised by the Governor;

E. P. Act
XXXVI
of 1957.

AND WHEREAS with a view to giving effect to the directive principles embodied in Article 30 of the Constitution of the Islamic Republic of Pakistan, the Code of Criminal Procedure (East Pakistan Amendment) Act, 1957, was passed for separation of the judiciary from the executive;

AND WHEREAS sub-section (3) of section 1 of the said Act provides that the aforesaid Act shall come into force in such areas and on such date as the Provincial Government may, by notification in the *Official Gazette*, specify in this behalf;

AND WHEREAS it is considered not desirable to bring the aforesaid Act into force in the whole of this Province immediately for various administrative reasons;

AND WHEREAS it is expedient that provision should be made for hearing of appeals by persons convicted on trial held by any Magistrate of the second or third class by the Sessions Judge pending bringing into force of the aforesaid Act;

AND WHEREAS the National Assembly is not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action;

And WHEREAS instructions of the President under the proviso to clause (I) of Article 102 of the Constitution of the Islamic Republic of Pakistan have been obtained;

NOW, THEREFORE, in exercise of the powers conferred by Article 102 of the Constitution of the Islamic Republic

(Sections 1—5.)

of Pakistan and of all other powers enabling him in that behalf, the Governor is pleased to make and promulgate the following Ordinance, namely:—

Short title,
extent and
commence-
ment.

1. (1) This Ordinance may be called the Code of Criminal Procedure (East Pakistan Third Amendment) Ordinance, 1958.

(2) It extends to the whole of East Pakistan.

(3) It shall be deemed to have come into force on the 23rd day of July, 1958.

Amendment
of section
407 of the
Code of Cri-
minal Proce-
dure, 1898.

2. Section 407 of the Code of Criminal Procedure, 1898, in its application to East Pakistan shall have, during the period specified in section 3, effect as if, in sub-section (1) thereof, for the words "the District Magistrate", the words "Sessions Judge" were substituted and for sub-section (2) thereof the following were substituted, namely:—

Act V of
1898.

"(2) The Sessions Judge may direct that any appeal under sub-section (1) or any class of such appeals shall be heard by any Additional Sessions Judge or any Assistant Sessions Judge of the Sessions Division."

Duration of
the Ordi-
nance.

3. The period referred to in section 2 in respect of any area is the period beginning with the date of commencement of the Code of Criminal Procedure (East Pakistan Amendment) Ordinance, 1958, and ending with the date on which the provision of the Code of Criminal Procedure (East Pakistan Amendment) Act, 1957, is brought into force in such area.

E.P. Ord.
XII of
1958.
E.P. Act.
XXXVI
of 1957.

Hearing of
appeals pend-
ing before
commence-
ment of E.P.
Ord. No. XII
of 1958.

4. Any appeal of a person convicted on a trial held by any Magistrate of the second or third class, which immediately before the commencement of the Code of Criminal Procedure (East Pakistan Amendment) Ordinance, 1958, was pending before any District Magistrate or any Magistrate subordinate to him and which stood transferred to the Sessions Judge of the Sessions Division as from the date of commencement of that Ordinance, shall be heard by him or he may transfer such appeal to such Additional Sessions Judge or such Assistant Sessions Judge, as he thinks fit, for hearing.

E.P. Ord.
No. XII
of 1958.

Savings.

5. On the expiry of the period specified in section 3, the provision of section 8 of the Bengal General Clauses Act, 1899, shall apply as if this Ordinance were an enactment then repealed by an East Bengal Act.

Ben. Act I
of 1899.

(Section 6.)

E.P. Ord. XXXIII of 1958. 6. (1) The Code of Criminal Procedure (East Pakistan Second Amendment) Ordinance, 1958, is hereby repealed. Repeal and savings.

(2) Notwithstanding such repeal, any direction issued or action taken or proceeding commenced or order passed under the provision of the said Ordinance shall continue in force and shall be deemed to have been issued or taken or commenced or passed, as the case may be, under the corresponding provision of this Ordinance, as if this Ordinance had come into force on the date of commencement of the said Ordinance.

East Pakistan Ordinance No. LXXV of 1958.

**THE EAST PAKISTAN INLAND WATER TRANSPORT
AUTHORITY ORDINANCE, 1958.**

[31st October, 1958.]

An Ordinance to set up an Authority for development, maintenance and control of inland water transport and of certain inland navigable waterways in East Pakistan.

WHEREAS it is necessary to make provisions for setting up of an Authority for the development, maintenance and control of inland water transport and of certain inland navigable waterways in East Pakistan ;

AND WHEREAS the Provincial Assembly of East Pakistan has been dissolved with the abrogation of the Constitution by the Proclamation of the President on 7th October, 1958;

AND WHEREAS the Governor of a Province has been vested with the powers of promulgating Ordinance as if clauses (1) and (3) of Article 102 of the late Constitution are still in force ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 5 of the Laws (Continuance in Force) Order, 1958, promulgated by the President of Pakistan on the 10th October, 1958 and of all other powers enabling him in that behalf the Governor of East Pakistan is pleased to make and promulgate the following Ordinance :—

President's
(Post-Pro-
clamation)
Order No. 1
of 1958.

1. (1) This Ordinance may be called the East Pakistan Inland Water Transport Authority Ordinance, 1958.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of East Pakistan.

(3) It shall come into force at once.

2. In this Ordinance, unless there is anything repugnant in the subject or context,—

Definitions.

(i) "Authority" means the East Pakistan Inland Water Transport Authority established under section 3 of this Ordinance ;

(ii) "Chairman" means the Chairman appointed under section 4 of this Ordinance ; and

(iii) "Prescribed" means prescribed by rule made under this Ordinance.

(Sections 3—6.)

**Establish-
ment and
Incorporation
of
Authority.**

3. (1) The Provincial Government may, by notification in the *Official Gazette*, establish an Authority to be known as the East Pakistan Inland Water Transport Authority for carrying out the purposes of this Ordinance.

(2) The Authority shall be a body corporate, shall be entitled to acquire and hold property, shall have perpetual succession and a common seal and shall by the said name sue and be sued.

**Appointment
and term of
office of
Chairman
and Mem-
bers.**

4. (1) The Authority shall consist of a Chairman and such number of members not exceeding four as may be appointed by the Provincial Government :

Provided that till such time as the Authority is fully constituted, the Chairman shall exercise the powers, functions and duties of the Authority.

(2) The term of office of the Chairman shall be five years and that of a member three years.

(3) (a) The Chairman may be either a whole-time or a part-time officer.

(b) The Chairman and one member, or when the Chairman be part-time, two other members, shall whole-time officers.

(4) Any person ceasing to be the Chairman or member by reason of the expiry of the term of his office shall be eligible for re-appointment for another term or for such shorter term as the Provincial Government may decide.

(5) The Chairman or any member may at any time resign :

Provided that his resignation shall not take effect until accepted by the Provincial Government.

(6) In the case of temporary absence of the Chairman or any member, the Provincial Government may appoint a Chairman or a member, as the case may be, for the period of absence.

**Remunera-
tion and
conditions
of service.**

5. The Chairman and each member shall receive such salary and allowances and be subject to such conditions of service as may be prescribed by the Provincial Government, and shall perform such duties as are assigned to them under this Ordinance or by any rules framed under it.

**Removal of
Chairman or
Members.**

6. The Provincial Government may, by notification in the *Official Gazette*, remove the Chairman or any member—

(a) if he refuses or fails to discharge or becomes, in the opinion of the Provincial Government,

of 1958.]

(Sections 7,8.)

incapable of discharging his responsibilities under this Ordinance ; or

- (b) if he has been declared insolvent ; or
- (c) if he has been declared to be disqualified for employment in, or has been dismissed from the service of Pakistan, or has been convicted of an offence involving moral turpitude ; or
- (d) if he has knowingly acquired or continued to hold without the permission in writing of the Provincial Government, directly or indirectly or through a partner, any share or interest in any contract or employment with or by or on behalf of the Authority, or in any land or property which, in his knowledge, is likely to benefit him or has benefited him as a result of the operation of the Authority.

7. (1) The Authority shall meet at such time and place and in such manner, as may be prescribed :

Meetings of
Authority.

Provided that until rules are made in this behalf, such meetings shall be convened by the Chairman.

(2) The Chairman, or in his absence a member authorised by him, and one other member shall be present to constitute a quorum at a meeting of the Authority.

(3) The Chairman shall have power to vote in a meeting of the Authority and in the case of equality of votes he shall have a casting vote also.

8. (1) The Provincial Government may, by notification in the *Official Gazette*, constitute an Advisory Committee consisting of the following members, namely:—

Advisory
Committee.

- (a) Chairman of the Authority who shall be *ex-officio* Chairman ;
- (b) One representative nominated by the General Officer Commanding, East Pakistan ;
- (c) One representative nominated by the Home (Transport) Department of the Provincial Government ;
- (d) One representative nominated by the Chittagong Port Commissioners ;
- (e) The Principal Officer-in-Charge of the Chalna Anchorage ;
- (f) The Principal Officer, Mercantile Marine Department, Chittagong ;
- (g) One representative of Inland Ship Construction and Repair Industries ;

(Sections 8, 9.)

- (h) One representative of the Joint Steamer Companies ;
- (i) One representative of other Major Inland Water Transport Operators to be nominated by the Provincial Government.

Explanation—An Inland Water Transport Operator whose gross annual earnings based on average of last three years is rupees ten lakhs or more is a Major Inland Water Transport Operator ;

- (j) One representative of the Motor Launch Operators to be nominated by the Provincial Government ;¹
- (k) Two representatives of the Shippers to be nominated one each by the Dacca-Narayanganj Chamber of Commerce and Chittagong Chamber of Commerce ²[;and]

³[(l) One representative nominated by the Eastern Bengal Railway, Chittagong.]

(2) Secretary of the Authority shall act as the Secretary of the Advisory Committee.

(3) The Advisory Committee shall meet at least once in every three months and the meetings of the Advisory Committee shall be called by the Chairman.

(4) The members of the Advisory Committee shall be entitled to such fees and allowances as may be prescribed.

(5) The Advisory Committee may advise the Authority in respect of all matters relating to the development, maintenance and operation of inland water transport and of inland waterways in East Pakistan.

Powers of
the Provin-
cial Govern-
ment to
supersede
the Author-
ity.

9. If, in the opinion of the Provincial Government, the Authority have shown their incompetency, to perform or have persistently made default in the performance of the duties imposed on them by or under this Ordinance or have exceeded or abused their powers, the Provincial Government may, by an order published in the *Official Gazette*, supersede them for a period specified in the order;

Provided that the Provincial Government before six months of such order or supersession shall give notice to the Authority to show cause why such action shall not be taken and also to provide them an opportunity to take remedial measures:

¹The word "and" was omitted by the East Pakistan Inland Water Transport Authority (Amendment) Ordinance, 1959 (East Pakistan Ordinance No. IX of 1959), section 3.

²The semi-colon and the word "and" were substituted for the full-stop at the end of clause (k), *ibid.*

³This new clause was added, *ibid.*

of 1958.]

(Sections 10—15.)

Provided further that except in case of misappropriation of Authority funds or persistent default in the performance of duties by the Authority the Provincial Government shall not ordinarily exercise powers under this section.

10. (1) The Authority may associate with themselves any person whose assistance or advice they may desire in carrying out any of the provisions of this Ordinance.

Temporary association of members with the Authority for particular purposes.

(2) A person associated with themselves by the Authority under sub-section (1) for any purpose shall have a right to take part in the discussions of the Authority.

11. The Authority may constitute sub-committees from amongst the members of the Advisory Committee constituted under section 8 and associated members under section 10 of this Ordinance to study and advise on the specific local requirements.

Sub-Committees.

12. The Authority may, subject to such conditions as may be prescribed, determine the number, designation and grade of officers and servants whom the Authority consider necessary to employ for the purpose of this Ordinance and the amount and nature of salary and allowances to be paid to each such officer and servant.

Determination of number, designation, etc., of officers and servants of the Authority.

13. The power of appointing, promoting and granting leave to officers and servants of the Authority and reducing in rank, suspending and dismissing them for misconduct, shall, subject to such conditions as may be prescribed, be vested in the Authority.

Power of appointment, suspension, etc., of officers and servants of the Authority.

14. The Authority may, from time to time, authorise the Chairman to exercise and perform, subject to the control of the Authority, any of the powers and duties conferred or imposed on the Authority by or under this Ordinance.

Delegation of powers to the Chairman.

15. (1) The Authority may perform any or all of the following functions, namely:—

Functions of the Authority.

- (i) carry out river conservancy works including river training works for navigational purposes and for provision of aids to navigation, including marks, buoys, lights and semaphore signals ;
- (ii) disseminate navigational and meteorological information including publishing river charts ;
- (iii) maintain pilotage and hydrographic survey services ;

(Section 15.)

- (iv) draw up programmes of dredging requirements and priorities for efficient maintenance of existing navigable waterways, and for resuscitation of dead or dying rivers, channels, or canals, including development of new channels and canals for navigation ;
- (v) develop, maintain and operate inland river ports, landing *ghats* and terminal facilities in such ports or *ghats* ;
- (vi) carry out removal of wrecks and obstructions in inland navigable waterways ;
- (vii) conduct traffic surveys to establish passenger and cargo requirements on the main rivers, feeders and creek routes ;
- (viii) develop the most economical facilities for passenger traffic to ensure comfort, safety and speed on mechanised craft ;
- (ix) fix maximum and minimum fares and freight rates for Inland Water Transport on behalf of the Provincial Government ¹[as provided in section 54A of the Inland Mechanically Propelled Vessels Act, 1917 ;]
- (x) approve time-tables for passenger services ;
- (xi) develop rural water transport by progressing of schemes for modernising and mechanising country craft ;
- (xii) ensure co-ordination of Inland Water Transport with other forms of transport, with major sea ports, and with trade and agricultural interests for the optimum utilisation of the available transport capacity ;
- (xiii) conduct research in matters relating to Inland Water Transport including development of—
 - (a) craft design,
 - (b) technique of towage,
 - (c) landing and terminal facilities,
 - (d) port installations ;
- (xiv) arrange programmes of technical training for Inland Water Transport personnel within and outside Pakistan ;

I of 1917

¹The words, figures, letter, comma and semi-colon within square brackets were substituted for the words, figures, comma and semi-colon "as provided in section 54 of the Inland Mechanically Propelled Vessels Act, 1917 ;" by the East Pakistan Inland Water Transport Authority (Amendment) Ordinance, 1959 (E. P. Ord. No. IX of 1959), section 4.

of 1958.]

(Sections 15, 16.)

- (xv) maintain liaison with the shipyard and ship repair industry to meet the requirements of the Inland Water Transport fleet repairs and new constructions;
- (xvi) maintain liaison with the Central Government and facilitate import of repair materials for the Inland Water Transport Industry ;
- (xvii) prepare plans or schemes for carrying out any of the above mentioned functions ;
- (xviii) any other function or functions which the Provincial Government may, from time to time, prescribe.

(2) Every scheme prepared by the Authority under subsection (1) shall be submitted to the Provincial Government for its approval with the following information:—

- (i) description of the scheme and the manner of its execution ;
- (ii) an estimate of costs and benefits ; and
- (iii) the allocation of costs to the various purposes to be served by the scheme and the amounts to be repaid by the beneficiaries.

(3) The Provincial Government may sanction or may refuse to sanction, or may return for reconsideration any scheme submitted to it under this Ordinance or may call for such further details or information about the scheme, or may direct such further examination of the scheme as it may deem necessary.

(4) The Authority shall, subject to permission and approval of the Provincial Government, have powers to enforce rules and regulations or any laws, either wholly or in part, pertaining to inland waterways and the control of traffic thereon.

Powers regarding enforcement of certain rules, regulations and laws made by the Government.

16. A scheme framed and sanctioned under this Ordinance may be amended or modified by the Authority at any time, but if a material change is made in the scheme, previous sanction of the Provincial Government shall be obtained.

Amendment and sanction of schemes.

Explanation.—An increase in the cost of the scheme by more than fifteen per cent. of the sanctioned cost, or a change in the benefit and cost ratio which either makes the cost component in the ratio exceed the benefits or reduces the benefits component by more than fifteen per cent. shall be deemed to be a material change for the purpose of this section.

(Sections 17—19.)

Immunity of
the Authority
and its
employees.

17. (1) The Chairman, Members, officers and servants of the Authority shall, when acting or purporting to act in pursuance of any of the provisions of this Ordinance, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code.

XLV of
1860.

(2) No suit, prosecution or other legal proceedings shall lie against the Authority, the Chairman, Members or officers and servants of the Authority in respect of anything done or intended to be done, in good faith under this Ordinance.

Submission
of yearly
reports and
returns, etc.

18. (1) The Authority shall submit to the Government, as soon as possible after the end of every financial year but before the last day of March next following, a report on the conduct of their affairs for that year.

(2) The Government may require the Authority to furnish:—

- (i) any return, statement, estimate, statistics or other information regarding any matter under the control of the Authority, or
- (ii) a report on any such matter, or
- (iii) a copy of any document in the charge of the Authority, and the Authority shall comply with every such requisition.

Authority
Fund.

19. (1) There shall be a fund to be known as the "Authority Fund" vested in the Authority which shall be utilised by the Authority to meet charges in connection with their functions under this Ordinance including the payment of salaries and other remunerations to the Chairman and Members of the Authority and to their officers and servants.

(2) The Authority Fund shall consist of—

- (a) grants made by the Government ;
- (b) loans obtained from the Government ;
- ¹(c) tolls, taxes or fees, or such portions thereof as the Provincial Government may prescribe, in respect of the following items:—
 - (i) inland waterways and the traffic thereon,
 - (ii) shipping and navigation on tidal waters,
 - (iii) goods and passengers carried on inland waterways,

¹This clause with the proviso was substituted for original clause (c) and the proviso thereto by the East Pakistan Inland Water Transport Authority (Second Amendment) Ordinance, 1959 (E. P. Ord. No. XV of 1959), section 3.

of 1958.]

(Sections 20, 21)

- (iv) boats, launches and steamers on inland waters,
- (v) tolls for maintenance of navigable waterways,
- (vi) terminal taxes and other dues at inland ports, and
- (vii) fees for river conservancy works and pilotage services:

Provided that the following shall not form part of the Authority Fund:—

IX of 1917. (i) fees levied under Chapters II and III of the Inland Mechanically Propelled Vessels Act, 1917.

(ii) taxes reserved for specified purposes.]

¹[(cc) The Provincial Government may empower the Authority to realise any or all of the tolls, taxes or fees specified in clause (c) of this subsection.]

(d) sale-proceeds of bonds issued under the authority of the Provincial Government ;

(e) loans or grants obtained by the Authority with the special or general sanction of the Government ;

(f) foreign aid and loans obtained from the Development Loan Fund or the International Bank of Reconstruction and Development or otherwise, with the sanction of, and on such terms and conditions as may be approved by the Provincial Government; and

(g) all other sums received by the Authority.

IX of 1914. 20. The Authority shall be deemed to be a local authority under the Local Authorities Loans Act, 1914 for the purpose of borrowing money under the said Act, and the making and execution of any scheme under this Ordinance shall be deemed to be a work which such authority is legally authorised to carry out. Authority to be deemed to be a local authority.

21. The liability of the Provincial Government to the creditors of the Authority shall be limited to the extent of grants made by the Government and the loans raised by the Authority with the sanction of the Government. Limited liability.

¹This clause was inserted by the East Pakistan Inland Water Transport Authority (Second Amendment) Ordinance, 1959 (E. P. Ord. No. XV of 1959), section 3.

(Sections 22—25.)

Maintenance
of accounts.

22. The Authority shall maintain complete and accurate books of accounts in such form as may be prescribed by the Provincial Government.

Annual
statement of
accounts.

¹[23. (1) The Authority shall, before three months of the expiry of financial year, submit to the Provincial Government, for approval, a statement of estimated receipts and expenditure in respect of the next financial year.

(2) On its receipt the budget estimate will be examined by the Provincial Government who may—

(a) accept it, or

(b) disallow it or a portion thereof and return it to the authority for amendment.

(3) If any budget estimate or a portion thereof is so returned, the Authority shall forthwith proceed to amend it and shall re-submit it after amendment to the Provincial Government in time so that Provincial Government's approval may be communicated before the commencement of the next financial year.]

Audit.

24. The accounts of the Authority shall be audited every year by the Accountant-General of East Pakistan in such manner as may be prescribed by the Provincial Government. Copies of the audit report shall be sent to the Authority, and, with the comments of the Authority, to the Provincial Government and shall also be available for public inspection. The Authority shall carry out any directive issued by the Provincial Government for rectification of an audit objection.

Power to
make rules;

25. The Provincial Government may make rules for carrying out the purposes of the Ordinance not otherwise specifically provided for.

¹This section was substituted for the original section 23 by the East Pakistan Inland Water Transport Authority (Second Amendment) Ordinance, 1959 (E. P. Ord. No. XV of 1959), section 4.

East Pakistan Ordinance No. LXXVI of 1958.

THE INLAND MECHANICALLY PROPELLED VESSELS (EAST PAKISTAN AMENDMENT) ORDINANCE, 1958.

[8th November, 1958.]

An Ordinance further to amend the Inland Mechanically Propelled Vessels Act, 1917.

WHEREAS it is expedient further to amend the Inland Mechanically Propelled Vessels Act, 1917 in the manner and for the purpose hereinafter appearing;

AND WHEREAS the Provincial Assembly of East Pakistan has been dissolved with the abrogation of the Constitution by the Proclamation of the President on 7th October, 1958;

AND WHEREAS the Governor of a Province has been vested with the powers of promulgating Ordinance as if clauses (1) and (3) of Article 102 of the late Constitution are still in force;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of Article 5 of the Laws (Continuance in Force) Order, 1958, promulgated by the President of Pakistan on the 10th October, 1958 and of all other powers enabling him in that behalf, the Governor of East Pakistan is pleased to make and promulgate the following Ordinance, namely:—

1. (1) This Ordinance may be called the Inland Mechanically Propelled Vessels (East Pakistan Amendment) Ordinance, 1958. Short title and commencement.

(2) It shall come into force at once.

2. The Inland Mechanically Propelled Vessels Act, 1917 (hereinafter referred to as the said Act) shall be amended in the manner hereinafter provided. Amendment of the Inland Mechanically Propelled Vessels Act (I of 1917.)

3. For section 19J of the said Act, the following shall be substituted, namely:— Amendment of section 19J of Act I of 1917.

“19J. (1) An inland mechanically propelled vessel registered under this Act in the Province of East Pakistan shall not, without the previous approval of the Provincial Government, be transferred to a non-national of Pakistan, or to a person resident in any country outside Pakistan.

[E. P. Ord. No. LXXVI of 1958.]

(Section 3).

- (2) Subject to the provisions of sub-section (1), the owner of an inland mechanically propelled vessel registered under this Act and the transferee thereof, shall, within thirty days of the transfer of ownership of the said vessel to the transferee, jointly make a report of the transfer to the registering authority within the local limits of whose jurisdiction the transferee resides or carries on business, or, if there be no such registering authority, then to such registering authority as may be prescribed by the Provincial Government, and shall also forward the certificate of registration to that registering authority, together with the prescribed fee, in order that particulars of the transfer of ownership may be entered thereon.
- (3) If the owner or master of an inland mechanically propelled vessel contravenes or attempts to contravene any provision of sub-section (1), he shall be punishable with rigorous imprisonment for a term which may extend to three years or with fine which may extend to one thousand rupees, or with both."

East Pakistan Ordinance No. LXXVII of 1958.

**THE EAST PAKISTAN ANTI-CORRUPTION LAWS
(VALIDATION) ORDINANCE, 1958.**

[20th November, 1958.]

**E. P. Act
XXVI of
1957.** WHEREAS doubts have been expressed as to the validity of the East Pakistan Anti-Corruption Act, 1957;

AND WHEREAS it is necessary to validate the aforesaid Act for removal of such doubts;

AND WHEREAS the Provincial Assembly of East Pakistan has been dissolved with the abrogation of the Constitution by the Proclamation of the President on 7th October, 1958;

AND WHEREAS the Governor of a Province has been vested with the powers of making Ordinance as if clauses (1) and (3) of Article 102 of the late Constitution are still in force;

AND WHEREAS the Governor of East Pakistan is satisfied that circumstances exist which render immediate action necessary;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 5 of the Laws (Continuance in Force) Order, 1958, promulgated by the President of Pakistan on the 10th October, 1958, and of all other powers enabling him in that behalf, the Governor of East Pakistan is pleased to make and promulgate the following Ordinance, namely:—

President's
Order (Post
Proclama-
tion) No. 1 of
1958.

1. (1) This Ordinance may be called the East Pakistan Anti-Corruption Laws (Validation) Ordinance, 1958.

Short title,
extent and
commence-
ment.

(2) It shall extend to the whole of East Pakistan.

(3) It shall come into force at once.

**E. P. Act
XXVI of
1957.** 2. It is hereby declared that the East Pakistan Anti-Corruption Act, 1957 shall be deemed and shall always be deemed to have the force and effect of law with effect from the 17th day of August, 1957 and anything done or any action taken thereunder in accordance with the provisions thereof shall be deemed to have been validly done.

Validation of
East Pakistan
Anti-
Corruption
Act, 1957.

**E. P. Act
XXVI of
1957.** 3. (1) No Court shall call into question the validity of the East Pakistan Anti-Corruption Act, 1957 or anything done or any action taken thereunder on any ground whatsoever.

Bar to the
jurisdiction
of Courts
and immuni-
ty of suits
and other
legal pro-
ceedings.

(2) No suit, prosecution or other legal proceeding shall lie in any Court against the Provincial Government or any person in the service of the Provincial Government for, or on account of, or in respect of any order passed, rule made, notification issued, anything done or any action taken in pursuance of any provision of that Act.

The Ordinance was applied to the Chittagong Hill-Tracts with effect from the 15th January, 1959 *vide* Notification No. 147-A. C. dated the 15th January, 1959, published in the *Dacca Gazette, Extraordinary*, dated the 15th January 1959, page 76.

East Pakistan Ordinance No. LXXVIII of 1958.

**THE EAST PAKISTAN PUBLIC SAFETY ORDINANCE,
1958.**

[25th November, 1958.]

An Ordinance to provide for special measures for ensuring public safety and the maintenance of public order, the suppression of prejudicial acts endangering communal harmony or the safety or stability of the Province, and for maintaining supplies and services essential to the life of the community.

WHEREAS it is expedient to provide for special measures for ensuring the public safety and the maintenance of public order, the suppression of prejudicial acts endangering communal harmony or the safety or stability of the Province, and for maintaining supplies and services essential to the life of the community;

AND WHEREAS the Provincial Assembly of East Pakistan has been dissolved with the abrogation of the Constitution by the Proclamation of the President on the 7th October, 1958;

AND WHEREAS the Governor of a Province has been vested with such powers of making Ordinances as he would have had and within such limitation had Article 106 and clauses (1) and (3) of Article 102 of the late Constitution been still in force;

AND WHEREAS instructions of the President in accordance with the principle incorporated in the proviso to clause (1) of Article 102 of the late Constitution have been obtained;

President's
(Post Pro-
clamation)
Order
No. 1 of
1958.

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 5 of the Laws (Continuance in Force) Order, 1958, promulgated by the President of Pakistan on the 10th October, 1958 and of all other powers enabling him in that behalf, the Governor of East Pakistan is pleased to make and promulgate the following Ordinance, namely:—

CHAPTER I'

Preliminary.

1. (1) This Ordinance may be called the East Pakistan Public Safety Ordinance, 1958.
- (2) It extends to the whole of East Pakistan.
- (3) It shall come into force at once.

Short title,
extent and
commence-
ment.

The Ordinance was applied to the Chittagong Hill-tracts with effect from the 10th August, 1959, *vide* Notification No. 6393-Poll. dated the 10th August, 1959, published in *Dacca Gazette, Extraordinary*, dated the 10th August, 1959, Part I, page 1011.

(Section 2.)

Definitions.

2. In this Ordinance, unless there is anything repugnant in the subject or context,—

(1) “confidential information” includes any information, whether true or false, or any document or other record whatsoever containing or purporting to contain or calculated directly or indirectly to convey any information, whether true or false, with respect to any of the following matters, that is to say,—

(a) the proceedings of any committee, commission, conference, convention or delegation appointed by Government;

(b) the contents of any secret or confidential document belonging to, or the contents of any document which has in confidence been communicated by, or any confidential information obtained from, Government or any person in the service of Government;

(2) “essential commodity” means food, water, fuel, light, power or any other thing essential for the existence of the community which is notified in this behalf by the Provincial Government;

(3) “notified” and “notification” mean notified and notification respectively in the *Official Gazette*;

(4) “prejudicial act” means any act which is intended or is likely—

(a) to endanger communal harmony, public safety or the maintenance of public order;

(b) to organise, further or help the illegal acquisition, possession or use of—

(i) arms, ammunition or military stores as defined in the Arms Act, 1878; XI of 1878.

(ii) explosive substances as defined in the Explosive Substances Act, 1908; VI of 1908.

(iii) corrosive substances or liquids;

(c) to bring into hatred or contempt or to excite disaffection towards the Government established by law;

(d) to promote feelings of enmity or hatred between different classes of people;

(e) to disrupt the stability or integrity of the Province;

of 1958.]

(Section 2.)

- (f) to cause fear or alarm to the public or to any section of the public;
- (g) to cause disaffection among, or to prejudice, prevent or interfere with the discipline, health, training or recruitment of, or the performance of their duties by, public servants;
- (h) to prejudice the recruiting of, or the attendance of persons for service in, any police force or fire brigade or any other body of persons enrolled, entered or engaged as public servants or servants of a local authority or to tamper with the loyalty of such persons;
- (i) to render any public servant incapable of efficiently performing his duties as such, or to induce any public servant to fail in the performance of his duties as such;
- ¹[(j) to impede, delay, restrict or interfere with the means of transport or locomotion, or any work necessary for the supply or distribution of any essential commodity, or the maintenance of supplies and services essential for the community;]
- (k) to cause or produce, or to instigate or incite, directly or indirectly, the cessation of work by a body of persons employed in any place of employment in which one hundred persons or more are normally employed, except in furtherance of a trade dispute (as defined in the Industrial Disputes Act, 1947) with which such body of persons is directly concerned;
- (l) to undermine public confidence in the national credit or in any Government loan or security or in any notes, coins which are legal tender in Pakistan or in any part thereof, or to prejudice the success of any financial measures taken or arrangements made by Government with a view to ensuring the soundness of national credit;
- (m) to encourage or incite any person or class of persons or the public generally to refuse or defer payment of any land-revenue, rent, tax, rate or cess or other dues or amount payable

Act XIV
of 1947.

¹This sub-clause was substituted for the original sub-clause (j) by the East Pakistan Public Safety (Second Amendment) Ordinance, 1959 (E. P. Ord. No. LXXV of 1959), section 2.

(Sections 3, 4.)

to Government, any local authority or person, or payable under any law or custom having the force of law for any services rendered to the community;

(n) to interfere with or to encourage or incite interference with the administration of law or the maintenance of law and order;

¹[(o) to stock or store anything in excess of the maximum quantity of that thing allowed to be held in stock or storage at any one time by any person by or under any law for the time being in force;

(p) to cause the selling or buying of anything at a price greater than the maximum price fixed by or under any law for the time being in force;]

(5) "prejudicial report" means any report, statement or visible representation, whether true or false, which, or the publishing of which, is, or is an incitement to the commission of, a prejudicial act as defined in clause (4);

(6) "prescribed" means prescribed by any order or rule made under this Ordinance;

(7) "public servant" includes any public servant as defined in section 21 of the Pakistan Penal Code and any servant of any local authority or railway administration; Act XLV of 1860.

(8) The words 'theft', 'robbery', 'dacoity' and 'criminal misappropriation' used in this Ordinance shall have the same meaning as in the Pakistan Penal Code. Act XLV of 1860.

Effect of the provisions of this Ordinance when inconsistent with other law.

Saving.

3. The provisions of this Ordinance and of any orders or rules made thereunder shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

4. No prohibition, restriction or disability imposed by or under this Ordinance, unless otherwise expressly provided by an order issued by the Provincial Government or by an officer specially authorised by the Provincial Government in this behalf, shall apply to anything done by, or under the direction of, any public servant acting in the course of his duty as such public servant.

¹These sub-clauses were added by the East Pakistan Public Safety (Amendment) Ordinance, 1959 (E. P. Ord. No. XXXVIII of 1959), section 2.

(Sections 5, 6.)

5. If any person to whom any provision of this Ordinance relates or to whom any order made in pursuance of any such provision is addressed or relates or who is in occupation, possession or control of any land, building, vehicle, vessel or other thing to which such provision relates, or in respect of which such order is made—

Non-compliance with the provisions of this Ordinance or any orders made thereunder.

- (a) fails without lawful authority or excuse, himself, or in respect of any land, building, vehicle, vessel or other thing of which he is in occupation, possession or control, to comply, or to secure compliance with such provision or order, or
- (b) evades, or attempts to evade, by any means such provision or order,

he shall be deemed to have contravened such provision or order, and in this Ordinance the expression "contravention" with its grammatical variations includes any such failure, evasion or attempt to evade.

CHAPTER II

Prevention of Prejudicial Acts.

6. (1) No person shall do any act with intent to **Sabotage.** impair the efficiency or impede the working of, or to cause damage to—

- (a) any building, vehicle, machinery, apparatus or other property used, or intended to be used, for the purpose of Government of any local authority;
- (b) any railway (as defined in the Railways Act, 1890), aerial ropeway (as defined in the Bengal Aerial Ropeways Act, 1923), road, canal, bridge, culvert, causeway, port, dockyard, light-house, aerodrome, or telegraph line or post (as defined in the Telegraph Act, 1885);
- (c) any rolling stock of any railway or any vessel or aircraft;
- (d) any building or other property used in connection with the production, distribution or supply of any essential commodity, any sewage works, mine, or factory; or
- (e) any place or area prohibited or protected under this Ordinance or any other law for the time being in force.

(2) The provisions of sub-section (1) shall apply in relation to any omission on the part of any person to do anything

(Section 7.)

which he is under a duty, either to the Provincial Government or to any public authority or to any person, to do, as they apply to the doing of any act by a person.

(3) If any person contravenes any of the provisions of this section, he shall be punishable with imprisonment for a term which may extend to seven years or with fine, or with both.

Prohibition
of prejudi-
cial acts,
publications
and commu-
nications.

7. (1) No person shall, without lawful excuse,—

- (a) do any prejudicial act ; or
- (b) make, print, publish, possess or distribute any document containing, or spread by any other means whatsoever, any prejudicial report ; or
- (c) make, print, produce, publish, possess or distribute any publication containing, or communicate to any person by any means whatsoever, any confidential information.

(2) The author, editor, printer and publisher of, and any person who otherwise makes or produces any prejudicial report or any confidential information, and any person who distributes or sells any report or information of that nature, knowing it to be of such nature, shall be deemed to have contravened the provisions of this section.

(3) If any person contravenes any of the provisions of this section, he shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both :

Provided that in any proceedings arising out of a contravention of this section—

- (a) in relation to the making or printing of any document, it shall be a defence for the accused to prove that the said document was made or printed, as the case may be,—
 - (i) with the permission or under the authority of the Provincial Government, or
 - (ii) as a proof intended for submission to the Provincial Government or to a person or authority designated by the Provincial Government in this behalf with a view to obtaining permission for its publication ;
- (b) in relation to the publication of any document, it shall be a defence for the accused to prove that the said document was published with the permission or under the authority of the Provincial Government.

of 1958.]

(Section 8.)

8. (1) The Provincial Government, if it is satisfied that any document made, printed or published, whether before or after the promulgation of this Ordinance, contains any prejudicial report or any confidential information, may, by order,—

Proscription,
etc., of
certain
documents.

- (a) require the editor, printer, publisher or person in possession of such document to inform the authority specified in the order of the name and address of any person concerned in the making of such report or in the supply or communication of such information ;
- (b) provide for the safe keeping of such document and copies thereof ;
- (c) require the delivery of such document and any copy thereof to any authority specified in the order ;
- (d) prohibit the further publication, sale or distribution of such document, of any extract therefrom or of any translation thereof, including, in the case of a newspaper or other periodical, the publication, sale or distribution of any subsequent issue thereof ;
- (e) declare such document and every copy or translation thereof or extract therefrom, to be forfeited to the Provincial Government ;
- (f) require the editor, printer, publisher or the keeper of the press to furnish security for such amount as the Provincial Government thinks reasonable.

(2) Where, in pursuance of sub-section (1), any document is required to be delivered to a specified authority, that authority may enter upon and search any premises whereon or wherein such document or any copy thereof is or is reasonably suspected to be, but such authority shall not so enter after sunset and before sunrise.

(3) Where, in pursuance of sub-section (1), any document has been declared to be forfeited to the Provincial Government, any police officer may seize any copy thereof, wherever found, and any Magistrate may, by warrant, authorise any police officer not below the rank of Sub-Inspector to enter upon and search any premises whereon or wherein such document or any copy thereof is or is reasonably suspected to be ; but such police officer shall not so enter after sunset and before sunrise.

(4) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

(Sections 9, 10.)

(5) If, after the furnishing of security under clause (f) of sub-section (1), any document is made, printed or published containing any prejudicial report or confidential information, then, the Provincial Government may, without prejudice to any other penalty to which the person guilty of making, printing or publishing such document is liable, declare such security, or any portion thereof, to be forfeited to it.

Power to
impose
censorship.

9. (1) The Provincial Government may, for the purpose of securing the public safety, or the maintenance of public order, by order addressed to a printer, publisher or editor, or to printers, publishers and editors generally—

(a) require that all matters, or any matter relating to a particular subject or class of subjects, shall, before being published in any document or class of documents, be submitted for scrutiny to an authority specified in the order ;

(b) prohibit or regulate the making or publishing of any document or class of documents, or of any matter relating to a particular subject or class of subjects, or the use of any press, as defined in the Press (Emergency Powers) Act, 1931.

XXIII
of 1931.

(2) If any person contravenes any order made under sub-section (1), then, without prejudice to any other proceedings which may be taken against such person, the Provincial Government may declare to be forfeited to it every copy of any document published or made in contravention of such order and any press, as defined in the Press (Emergency Powers) Act, 1931, used in the making of such document.

XXIII
of 1931.

(3) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

Explanation—In this Chapter “document” includes any painting, drawing, photograph or other visible representation as also gramophone records, sound tracks and any other articles on which sounds have been recorded with a view to their subsequent reproduction.

Power to
control pub-
lications.

10. (1) The Provincial Government, if satisfied that such action is necessary for the purpose of ensuring the public safety or the maintenance of public order, may, by

of 1958.]

(Sections 11,12.)

order in writing addressed to a printer, publisher, editor or keeper of a press—

- (a) prohibit the printing or publication in any document or class of documents of any matter relating to any subject or class of subjects, either absolutely or for a specified period in any issue or issues of a newspaper, periodical, or other publication ;
- (b) prohibit either absolutely or for a specified period the publication of any newspaper, periodical, or other publication or the use of any press.

(2) If any person contravenes any order made under sub-section (1), the Provincial Government may, without prejudice to any other penalty to which such person is liable, order the seizure of all copies of any such publication and forfeit to it the press concerned.

CHAPTER III

Public Safety and Order.

11. Any person who carries on his person or knowingly has in his possession or under his control any corrosive substance or liquid, under such circumstances as to give rise to a reasonable suspicion that he does not carry it on his person or have it in his possession or under his control for a lawful object, shall, unless he can show that he was carrying it on his control for a lawful object, be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

Punishment for carrying or possessing any corrosive substance or liquid.

12. Whoever commits dacoity, robbery, theft, or theft in a building, vessel or vehicle, or criminal misappropriation—

Definition of looting.

- (a) during a riot, or any disturbance of the public peace at or in the neighbourhood of the riot, or the place at which such disturbance of the public peace occurs, or
- (b) in any area in which a riot or disturbance of the public peace has occurred and before law and order has been completely restored in such area, or
- (c) in such circumstances that a person whose property is stolen or criminally misappropriated is not, as a consequence of rioting or any other disturbance of the public peace, present or able to protect such property is said to commit the offence of looting.

(Sections 13—17.)

Use of force
to stop loot-
ing.

13. Any police officer not below the rank of a head constable, if in his opinion he cannot otherwise stop the commission of the offence of looting, may use such force as may be necessary even to the extent of causing death.

Curfew.

14. (1) The District Magistrate may, subject to the control of the Provincial Government, by order direct that, subject to any exemption specified in the order, no person present within any area or areas specified in the order shall, between such hours as may be specified in the order, be out of doors except under the authority of a written permit granted by a specified authority or person.

(2) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Amendment
of sections
127 and 128
of the Code
of Criminal
Procedure,
1898.

15. For the purposes of this Ordinance, in sections 127 and 128 of the Code of Criminal Procedure, 1898, for the words "or officer in charge of a police station" the words "or any police officer of or above the rank of a head constable" shall be deemed to have been substituted.

V of 1898.

Control of
processions,
meetings, etc.

16. (1) The Provincial Government may, by general or special order, prohibit, restrict or impose conditions upon, the holding of or taking part in public processions, meetings or assemblies.

(2) For the purposes of sub-section (1), any procession, meeting or assembly which is open to the public or to any class or portion of the public, whether held in a public or a private place and whether admission thereto is restricted by issue of tickets or otherwise, shall be deemed to be a public procession, meeting or assembly, as the case may be.

(3) Any police officer may take such steps, and use such force, as may be reasonably necessary for securing compliance with any order made under this section.

(4) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Power to
make order
restricting
the move-
ments or
actions of or
detaining
certain per-
sons.

17. (1) The Provincial Government, if satisfied with respect to any particular person that with a view to preventing him from doing any prejudicial act it is necessary so to do, may make an order—

(a) directing that he be detained;

(b) directing that, except in so far as he may be permitted by the provisions of the order or by

of 1958.]

(Section 17.)

such authority or person as may be specified therein, he shall not be in any such area or place in East Pakistan as may be specified in the order;

- (c) requiring him to reside or remain in such place or within such area in East Pakistan as may be specified in the order and if he is not already there to proceed to that place or area within such time as may be specified in the order;
- (d) requiring him to notify his movements or to report himself or both to notify his movements and report himself in such manner, at such times and to such authority or person as may be specified in the order;
- (e) imposing upon him such restrictions as may be specified in the order in respect of his employment, business or movements, in respect of his association or communication with other persons, and in respect of his activities in relation to the dissemination of news or propagation of opinions;
- (f) prohibiting or restricting the possession or use by him of any such article or articles as may be specified in the order;
- (g) otherwise regulating his conduct in any such particular manner as may be specified in the order.

(2) An order made under sub-section (1) may require the person in respect of whom it is made to enter into a bond with or without sureties, for the due performance of, or as an alternative to the enforcement of, such restrictions or conditions made in the order as may be specified in the order.

(3) If any person is in any area or place in contravention of an order made under the provision of this section, or fails to leave any area or place in accordance with the requirements of such an order, then, without prejudice to the provisions of sub-section (5), he may be removed from such area or place by any police officer or by any person acting on behalf of the Provincial Government.

(4) If the Provincial Government has reason to believe that a person in respect of whom such an order as aforesaid has been made directing that he be detained, has absconded or is concealing himself so that the order cannot be executed, it may—

- (a) make a report in writing of the fact to a Magistrate of the first class having jurisdiction in the place

(Sections 18, 19.)

where the said person ordinarily resides; and thereupon the provisions of sections 87, 88 and 89 of the Code of Criminal Procedure, 1898, shall apply in respect of the said person and his property as if the order directing that he be detained were a warrant issued by the Magistrate; V of 1898. ~

- (b) by notified order direct the said person to appear before such officer, at such place, and within such period as may be specified in the order; and if the said person fails to comply with such direction he shall, unless he proves that it was not possible for him to comply therewith and that he had, within the period specified in the order, informed the officer of the reason which rendered compliance therewith impossible and of his whereabouts, be deemed to have contravened the order within the meaning of sub-section (5).

(5) If any person contravenes any order under this section, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both, and if such person has entered into a bond in pursuance of the provisions of sub-section (2), his bond shall be forfeited, and any person bound thereby shall pay the penalty thereof, or show cause to the satisfaction of the convicting court why such penalty should not be paid.

Duration of
orders made
under section
17

18. (1) An order made under clause (a) of sub-section (1) of section 17 shall be in force for six months:

Provided that nothing shall prevent the Provincial Government on the expiry of the validity of any such order as aforesaid, after considering all the circumstances of the case, from issuing from time to time a fresh order to the same effect and subject to the same limitation as to duration.

(2) An order under sub-section (1) of section 17, other than an order under clause (a) of that sub-section, shall remain in force for such period as may be specified in the order, unless earlier cancelled by the authority making it.

Grounds of
order of
detention to
be disclosed
to person
affected by
the order.

19. Where an order is made in respect of any person under clause (a) of sub-section (1) of section 17, as soon as may be after the order is made, the authority making the order shall communicate to the person affected thereby, so far as such communication can be made without disclosing facts which the said authority considers it would be against the public interest to disclose, the grounds on which the order has been made against him and such other particulars as are, in the opinion of such authority, sufficient

of 1958.]

(Sections 20, 21.)

to enable him to make, if he wishes, a representation against the order and such person may at any time thereafter make a representation in writing to such authority against the order, and it shall be the duty of such authority to inform such person of his right of making such representation and to afford him the earliest practical opportunity of doing so.

20. (1) The Provincial Government may, for the purpose of securing the public safety or the maintenance of public order, by general or special order, prohibit, restrict, regulate or impose conditions on—

Control of
use of loud-
speakers,
megaphones,
etc.

- (i) the use or operation in any street, square, public place or other open space of any apparatus for amplifying the human voice, or any reproduction of the human voice such as a megaphone or an electrically operated loud-speaker; and
- (ii) the use, operation or driving in any street, square, public place or other open space of any vehicle which carries or has attached to it any apparatus referred to in clause (i).

(2) Any police officer may take such steps and use such force as may be reasonably necessary for securing compliance with any order made under this section and may seize any apparatus or vehicle in respect of which any contravention of any such order, has, in the opinion of such officer, occurred:

Provided that any vehicle or apparatus seized by a police officer under this sub-section shall be produced without delay before a Magistrate who may give such directions as to its temporary custody as he thinks fit, but if no prosecution is instituted for a contravention of the order in respect of such vehicle or apparatus within a period which is, in the opinion of the Magistrate, reasonable, he shall direct its return to the person from whom it was seized.

(3) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both, and any court trying such contravention may direct that any apparatus or vehicle in respect of which the court is satisfied that the order has been contravened shall be forfeited to the Provincial Government.

21. (1) The District Magistrate may, by order in writing, depute one or more police officers not below the rank of head constable, or other persons, to attend any public meeting for the purpose of causing a report to be

owers to
secure
reports of
public
meetings.

(Sections 22, 23.)

made of the proceedings, and may by such order authorise the persons so deputed to take with them an escort of police officers.

(2) Any such order shall operate as a direction to the persons responsible for the convening or the conduct of the meeting to admit free of charge the police officers or other persons so deputed with any escort accompanying them and to allot to them such accommodation and in such a position as to enable them conveniently to hear and record the proceedings of the meeting.

Explanation—For the purpose of this section, a public meeting is a meeting which is open to the public or to any class or portion of the public, whether held in a public or private place and whether admission thereto is restricted by ticket or otherwise.

Unlawful
drilling.

22. (1) The Provincial Government may, by general or special order, prohibit or restrict in any area any such exercise, movement, evolution or drill of a military nature as may be specified in the order.

(2) The Provincial Government may, by general or special order, with a view to securing that no unauthorised exercise, movement, evolution or drill of a military nature is performed at any place, prohibit, restrict or impose conditions on the holding of, or taking part in, any such camp, parade, meeting or assembly, or such class thereof, as may be specified in the order.

(3) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

Un-official
uniforms,
etc.

23. (1) If the Provincial Government is satisfied that the wearing in public of any dress or article of apparel resembling any uniform or part of uniform required to be worn by a member of the Pakistan Forces or by a member of any official Police Force or of any force constituted under any law for the time being in force would be likely to prejudice the public safety, or the maintenance of public order, the Provincial Government may, by general or special order, prohibit or restrict the wearing or display in public of any such dress or article of apparel.

(2) For the purposes of this section, a dress or an article of apparel shall be deemed to be worn or displayed in public if it is worn or displayed so as to be visible to a person in any place to which the public have access.

of 1958.]

(Sections 24, 25.)

(3) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

24. (1) Any officer of Government authorised in this behalf by general or special order of the Provincial Government may, within such area as may be specified in the order, require any male person in that area to assist in the maintenance or restoration of law and order or in the protection of property for such period and in such manner as the officer may direct.

Powers to require the assistance of certain persons.

(2) If any person fails to comply with any lawful direction given to him under sub-section (1), he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

CHAPTER IV

Access to certain places and areas.

25. (1) If as respects any place or class of places the Provincial Government considers it necessary or expedient that special precautions should be taken to prevent the entry of unauthorised persons, it may by order declare that place, or, as the case may be, every place of that class to be a protected place; and thereupon, for so long as the order remains in force, such place or every place of such class, as the case may be, shall be a protected place for the purposes of this Ordinance.

Protected places.

(2) No person shall, without the permission of the Provincial Government, enter, or be on or in, or to pass over, or loiter in the vicinity of, any protected place.

(3) Where in pursuance of sub-section (2) any person is granted permission to enter, or to be on or in, or to pass over, a protected place, the person shall, while acting under such permission, comply with such orders for regulating his conduct as may be given by the Provincial Government.

(4) Any police officer, or any other person authorised in this behalf by the Provincial Government, may search any person entering, or seeking to enter, or being on or in, or leaving, a protected place, and any vehicle, vessel, animal or article brought in by such person and may, for the purpose of the search, detain such person, vehicle, vessel, animal or article :

Provided that no woman shall be searched in pursuance of this sub-section except by a woman.

(Section 26.)

(5) If any person is in a protected place in contravention of this section, then, without prejudice to any other proceedings which may be taken against him, he may be removed therefrom by any police officer or by any other person authorised in this behalf by the Provincial Government.

(6) If any person is in a protected place in contravention of any of the provisions of this section, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Protected
areas.

26. (1) If the Provincial Government considers it necessary or expedient to regulate the entry of persons into any area, the Provincial Government may, without prejudice to any other provision of this Ordinance, by order declare the area to be a protected area; and thereupon, for so long as the order is in force, such area shall be a protected area for the purposes of this Ordinance.

(2) On and after such day as may be specified in, and subject to any exemptions for which provision may be made by an order made under sub-section (1), no person, who was not at the beginning of the said day resident in the area declared to be a protected area by the said order, shall be therein except in accordance with the terms of a permit in writing granted to him by an authority or person specified in the said order.

(3) Any police officer, or any other person authorised in this behalf by the Provincial Government, may search any person entering or seeking to enter, or being on or in, or leaving, a protected area, and any vehicle, vessel, animal or article brought in by such person, and may, for the purpose of the search, detain such person, vehicle, vessel, animal or article :

Provided that no woman shall be searched in pursuance of this sub-section except by a woman.

(4) If any person is in a protected area in contravention of the provisions of this section, then, without prejudice to any other proceedings which may be taken against him, he may be removed therefrom by or under the direction of any police officer on duty in the protected area.

(5) If any person is in a protected area in contravention of any of the provisions of this section, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

of 1958.]

(Sections 27, 28.)

27. (1) Any person who effects or attempts to effect entry into a protected place or protected area—

Penalty for attempts to enter protected area.

(a) by using or threatening to use, criminal force to any person posted for the purpose of protecting, or preventing or controlling access to, such place or area, or

(b) after taking precautions to conceal his entry or attempted entry from any such person,

shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

28. (1) Without prejudice to any other provision of this Ordinance, the Provincial Government, as respects—

Orders for certain places and areas.

(a) any place or area declared by it to be a protected place or protected area, or

(b) any other place or area in relation to which it appears to it to be necessary to take special precautions for preventing or suppressing prejudicial acts or for maintaining supplies and services essential to the life of the community,

may make orders for controlling or regulating the admission of persons to, and the conduct of persons in and in the vicinity of, such place or area.

(2) Without prejudice to the generality of the foregoing provisions, orders made under sub-section (1) in relation to any place or area may make provision—

(a) for restricting the admission of persons to such place or area and for removing therefrom any person who is, therein in contravention of the orders or who has been convicted of any contravention of the provisions of this Ordinance ;

(b) for requiring the presence of any person or class of persons in such place or area to be notified to a prescribed authority and for requiring any person who has been convicted of any such offence as is mentioned in clause (a) of this sub-section to report his movements while in such place or area and to observe any other condition imposed upon him by a prescribed authority ;

(c) for requiring any person or class of persons in such place or area to carry such documentary evidence of identity as may be prescribed; and

(Section 29.)

(d) for prohibiting any person or class of persons from being in possession or control of any prescribed article.

(3) An order made under this section in respect of a protected place or protected area may exempt such place or area from all or any of the provisions of this Ordinance which are expressed to apply to or in relation to a protected place or protected area, as the case may be, or may direct that all or any of the said provisions shall apply, subject to such modifications as may be specified in the order.

(4) An order made under this section in respect of a place or area which is not a protected place or protected area may direct that all or any of the provisions of this Ordinance which are expressed to apply to or in relation to a protected place or protected area, as the case may be, shall apply to or in relation to the place or in area in respect of which the order is made either without modification or subject to such modification as may be specified in the order.

(5) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

CHAPTER V

Control of Essential Services.

Control of
essential ser-
vices.

29. (1) If the Provincial Government is of opinion that any employment or class of employment under the Provincial Government is essential for purposes of public safety, maintenance of public order or maintaining supplies or services essential to the life of the community, it may, by notification, declare such employment or class of employment to be an employment to which this Chapter shall apply, and may, by general or special order, direct that any person or persons engaged in such employment shall not depart out of such area or areas as may be specified in such order.

(2) An order made under sub-section (1) shall be published in such manner as the Provincial Government or officer making the order may consider best calculated to bring it to the notice of the persons affected by the order.

(3) Any person engaged in any employment or class of employment notified under sub-section (1) who—

(a) disobeys any lawful order given to him in the course of such employment, or

of 1958.]

(Sections 29, 30.)

- (b) without reasonable excuse abandons such employment or absents himself from work, or
- (c) departs from any area specified in an order under sub-section (1) without the consent of the authority making that order, and any employer of a person engaged in an employment or class of employment notified under sub-section (1) who without reasonable cause—
 - (i) discontinues the employment of such person, or
 - (ii) by closing an establishment in which such person is engaged causes the discontinuance of his employment,

shall be guilty of an offence under this section.

Explanation 1—Abandonment of employment or absence from duty by any person merely for fear of molestation, intimidation or assault by any person or class of persons shall not constitute a reasonable excuse within the meaning of clause (b).

Explanation 2—A person abandons his employment within the meaning of clause (b), who notwithstanding that it is an express or implied term of his contract of employment that he may terminate his employment on giving notice to his employer of his intention to do so, so terminates his employment without the previous consent of his employer.

(4) Any person found guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(5) If the person contravening any of the provisions of this section is a company or other body corporate, every director, manager, secretary or other officer or agent thereof shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.

30. No Court shall take cognizance of any offence under section 29 except upon the complaint in writing made by an officer authorised in this behalf by the Provincial Government.

Cognizance.

(Section 31.)

CHAPTER VI

Collective Fines.

Imposition
of collective
fines.

31. (1) If it appears to the Provincial Government that the inhabitants of any area are concerned in or abetting the commission of offences prejudicially affecting communal harmony, public safety, the maintenance of public order, the maintenance of supplies or services essential to the life of the community, or harbouring persons concerned in the commission of such offence, or are failing to render all the assistance in their power to discover or apprehend the offender or offenders, or are suppressing material evidence of the commission of such offences, it may, by notification, impose a collective fine on the inhabitants of that area :

Provided that an imposing of a collective fine by any officer or authority to whom the power may have been delegated under this Ordinance may be made by publication of the order imposing the fine in any such manner as such authority may consider best calculated to bring the order to the notice of the inhabitants of the area concerned.

(2) The Provincial Government or any officer empowered in this behalf by the Provincial Government may, by general or special order, exempt any such inhabitants or class or section of such inhabitants from liability to pay any portion of such fine.

(3) The District Magistrate, after such enquiry as he may deem necessary, shall apportion such fine among the inhabitants who are liable collectively to pay it, and such apportionment shall be made according to his judgment of the respective means of such inhabitants.

(4) In making the apportionment, the District Magistrate may fix the portion to be paid by a joint or undivided family.

(5) The portion of such fine payable by any inhabitant of joint or undivided family may be recovered—

(a) in the manner provided by the Code of Criminal Procedure, 1898, for the recovery of fine imposed by a Court; v of 1898.

Provided that the Provincial Government may in lieu of the rules referred to in sub-section (2) of section 386 of the Code of Criminal Procedure, 1898, v c make rules under this Ordinance regulating the 1898.

of 1958.]

(Sections 32—34.)

manner in which warrants under clause (a) of sub-section (1) of the said section of the said Code are to be executed, and for the summary determination of any claims made by any person other than the person liable to pay the fine in respect of any property attached in execution of the warrant; or

Ben. Act
III of
1913.

(b) as public demand under the Public Demands Recovery Act, 1913.

CHAPTER VII

Miscellaneous Provisions.

32. (1) Without prejudice to any special provisions contained in this Ordinance, the Provincial Government may by order require any person to furnish or produce to any specified authority or person any such information or article in his possession as may be specified in the order, being information, or an article which the Provincial Government considers it necessary or expedient, in the interests of the public safety or maintenance of public order, to obtain or examine:

Power to
obtain in-
formation.

I of 1872.

Provided that no person shall be required to furnish or produce any information or article which under the provisions of the Evidence Act, 1872, he cannot be compelled to furnish or produce.

(2) If any person fails to furnish or produce any information or article in compliance with an order made under sub-section (1), he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

33. If any person when required by or under any of the provisions of this Ordinance to make any statements or furnish any information, makes any statement or furnishes any information which he knows or has reasonable cause to believe to be false, or not true, in any material particular, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

False state-
ments.

34. (1) If in the opinion of the Provincial Government it is necessary or expedient so to do for securing the public safety, the maintenance of public order or for maintaining supplies and services essential to the life of the community, it may, by order in writing, requisition any property, movable or immovable, and may make such further orders as appear to it to be necessary or expedient in connection with the requisitioning:

Requisition-
ing of pro-
perty.

[E. P. Ord. No. LXXVIII]**(Section 34.)**

Provided that no property used for the purpose of religious worship shall be requisitioned under this section.

(2) Where the Provincial Government has requisitioned any property under sub-section (1), it may use or deal with the property in such manner as may appear to it to be expedient.

(3) Whenever in pursuance of sub-section (1), the Provincial Government requisitions any movable property, the owner thereof shall be paid such compensation as the Provincial Government may determine:

Provided that where the owner of such property, being aggrieved by the amount of compensation so determined makes an application for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as an arbitrator appointed in this behalf by the Provincial Government may determine:

Provided further that, where immediately before the requisition the property was by virtue of a hire purchase agreement in the possession of a person other than the owner, the amount determined by the Provincial Government as the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon, and in default of agreement, in such manner as an arbitrator appointed by the Provincial Government in this behalf may decide to be just.

(4) Where in pursuance of sub-section (1) the Provincial Government requisitions any immovable property, there shall be paid compensation, the amount of which shall be determined in the prescribed manner and in accordance with the principles, hereinafter set out, that is to say,—

- (a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;
- (b) where no such agreement can be reached, the Provincial Government shall appoint as arbitrator a District Judge or an Additional District Judge ;
- (c) the Provincial Government may, in any particular case, nominate a person having expert knowledge as to the nature of the property requisitioned, to assist the arbitrator, and where such nomination is made, the person to be compensated may also nominate an assessor for the said purpose ;
- (d) at the commencement of the proceedings before the arbitrator, the Provincial Government and the person to be compensated shall state what in

of 1958.]

(Section 34.)

their respective opinions is a fair amount of compensation ;

(e) an appeal shall lie to the High Court against an award of an arbitrator except in cases where the amount of compensation awarded does not exceed five thousand rupees in lump or, in the case of an amount payable periodically, two hundred and fifty rupees *per mensem* ;

(f) save as provided in this section and in any rules made thereunder, nothing in any law for the time being in force shall apply to arbitrations under this sub-section.

(5) Where any immovable property requisitioned under sub-section (1) is to be released from requisition, the Provincial Government may, after making such enquiry, if any, as it considers necessary, specify by order in writing the person who appears to the Provincial Government to be entitled to the possession of such property.

Release from
requisition.

(6) The delivery of possession of the immovable property requisitioned under sub-section (1) to the person specified in an order made under sub-section (5) shall be a full discharge of the Provincial Government from all liability in respect of such delivery, but shall not prejudice any rights in respect of the property which any other person may be entitled by due process of law to enforce against the person to whom possession of the property is so delivered.

(7) Where the person to whom possession of any immovable property requisitioned under sub-section (1) is to be given cannot be found and he has no agent or other person empowered to accept delivery on his behalf, the Provincial Government shall cause a notice declaring that the property is released from requisition to be affixed on some conspicuous part of the property and published in the *Official Gazette*.

(8) When a notice referred to in sub-section (7) is published in the *Official Gazette*, the immovable property specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof ; and the Provincial Government shall not be liable for any compensation or other claim in respect of such property for any period after the said date.

(9) Where any immovable property requisitioned under sub-section (1) is released from requisition, compensation shall also be paid in respect of any damage done during

(Sections 34, 35.)

the period of requisition to such property other than what may have been sustained by normal wear and tear or by natural causes, when the amount of such compensation can be fixed by agreement, it shall be paid in accordance with such agreement ; where no such agreement can be reached, the matter shall be referred to an arbitrator and thereupon the provisions of sub-section (4) shall, as far as may be, apply.

(10) The Provincial Government may, with a view to requisitioning any property under sub-section (1) or determining the compensation payable under sub-section (3), by order—

- (a) require any person to furnish to such authority as may be specified in the order such information in his possession relating to the property as may be so specified ;
- (b) direct that the owner, occupier or person in possession of the property shall not without the permission of the Provincial Government dispose of it or where the property is a building, structurally alter it or where the property is movable, remove it from the premises in which it is kept till the expiry of such reasonable period as may be specified in the order.

(11) Without prejudice to any powers otherwise conferred by this Ordinance, any person authorised in this behalf by the Provincial Government may enter any premises between sunrise and sunset and inspect such premises and any property therein or thereon, for the purpose of determining whether, and, if so, in what manner, an order under this section should be made in relation to such premises or property, or with a view to securing compliance with any order made under this section.

If any person contravenes any order made under this section he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Publication,
affixation
and defacement
of
notices.

35. (1) Save as otherwise expressly provided in this Ordinance, every authority, officer or person who makes any order in writing in pursuance of any provision thereof, shall, in the case of an order of a general nature or affecting a class of persons, publish notice of such order in such manner as may, in the opinion of such authority, officer or person, be best suited for informing persons whom the order concerns, in the case of an order affecting an individual corporation or firm serve or cause the order to be served

of 1958.]

(Section 35.)

Act V of 1908. in the manner provided for the service of a summons in rule 2 of Order XXIX or rule 3 of Order XXX, as the case may be, in the First Schedule to the Code of Civil Procedure, 1908, and in the case of an order affecting an individual person (not being a corporation or firm) serve or cause the order to be served on that person—

- (i) personally, by delivering or tendering to him the order, or
- (ii) by registered post, or
- (iii) where the person cannot be found, by leaving an authentic copy of the order with some adult male member of his family or by affixing such copy to some conspicuous part of the premises in which he is known to have last resided or carried on business or personally worked for gain.

(2) Where this Ordinance empowers an authority, officer or person to take action by notified order, the provisions of sub-section (1) shall not apply in relation to such order.

(3) If in the course of any judicial proceedings, a question arises whether a person was duly informed of an order made in pursuance of any provision of this Ordinance, compliance with sub-section (1) or, in a case to which sub-section (2) applies, the notification of the order, shall be conclusive proof that he was so informed, but a failure to comply with sub-section (1)—

- (i) shall not preclude proof by other means that he had information of the order ; and
- (ii) shall not affect the validity of the order.

(4) Any police officer, and any other person authorised by the Provincial Government in this behalf may, for any purpose connected with the public safety, the maintenance of public order, maintaining supplies and services essential to the life of the community or for carrying out the provisions of this Ordinance, affix any notice to, or cause any notice to be displayed on any premises, vehicle or vessel, and may for the purpose of exercising the power conferred by this section enter any premises, vehicle or vessel at any time between sunrise and sunset.

(5) Any person authorised by the Provincial Government in this behalf may, for any purpose mentioned in sub-section (4), by order direct the owner or other person in possession or control of any premises, vehicle or vessel to display any notice on, or in, the premises, vehicle or vessel in such manner as may be specified in the order.

(Section 36.)

(6) If any person without lawful authority removes, alters, defaces, obliterates or in any way tampers with any notice affixed or displayed in pursuance of the provisions of this Ordinance, or contravenes any order under sub-section (5), he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

36. (1) The Provincial Government may, by order in writing, require the owner, or the person having the management, or the master, of any vessel plying on inland waterways in East Pakistan—

(a) to place at the disposal of the Provincial Government the whole or any part of the space or accommodation available on such vessel, and to employ such space or accommodation for the carriage of any persons, animals or things to any place specified in the order, and

(b) to undertake or permit to be undertaken such structural additions or alterations on board such vessel as may be necessary to fit it for the safe carriage of any persons, animals or things.

(2) Whenever in pursuance of clause (a) of sub-section (1) any space or accommodation in any vessel is placed at the disposal of the Provincial Government, the owner of such vessel shall be paid therefor at such rates as the Provincial Government may, by order made in this behalf, determine.

(3) Whenever in pursuance of clause (b) of sub-section (1) the Provincial Government requires any structural additions or alterations to be undertaken on board any vessel, the owner of such vessel shall be paid the actual cost of such additions or alterations.

(4) Where, in respect of any vessel, there subsists a contract under which person is entitled to possession of it, or has the right to have any articles carried in it or to use any space or accommodation in it, the Provincial Government may serve on that person, in any manner appearing to it to be convenient, a notice stating that on such date as may be specified in the notice his rights and liabilities under the contract will be transferred to the Provincial Government; and in that event the contract shall, as regards any rights exercisable, or liabilities incurred on or after the said date, have effect, subject to the provision of sub-section (1), as if the Provincial Government were a party to the contract instead of the person on whom the notice was served, and as if for any reference in the contract to that person there were substituted a reference to the Provincial Government.

of 1958.]

(Section 37.)

(5) The Provincial Government may at any time cancel a notice served under the provision of sub-section (4) in respect of a contract, and thereupon the provisions of the said sub-section shall, unless and until a further notice is served thereunder in respect of that contract, cease to operate in relation to the contract as regards any rights exercisable, or liabilities incurred, on or after the date on which the cancellation takes effect.

(6) If any order made under sub-section (1) is contravened, the master of the vessel and the owner or other person having the management thereof shall each be deemed to have contravened such order and shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

37. (1) In this section—

(a) "vehicle" means any vehicle used, or capable of being used, for the purpose of road transport, whether propelled by mechanical power or otherwise, and whether used for drawing other vehicles or otherwise ;

Control of
road and
water
transport.

(b) "water transport" means transport on inland waters in East Pakistan.

(2) The Provincial Government may by general or special order—

(a) regulate, restrict or give directions with respect to, the use of any vehicle for the purpose of road transport ;

(b) require any person owning, or having in his possession or under his control, any vehicle to make to any person specified in this behalf a return giving such particulars as may be specified in the order with regard to such vehicle and require such return to be verified in such manner as may be specified in the order ;

(c) require any person owning, or having in his possession or under his control, any vehicle to give notice in such manner as may be specified in the order before disposing of it or allowing it to pass out of his possession or control ;

(d) require any person owning, or having in his possession or under his control, any vehicle to comply with any directions given by any person specified in, or duly authorised in pursuance of, the order ; and such directions may require the person owning, or having in his possession or

(Section 37.)

under his control, any vehicle to use such vehicle for the conveyance of such persons or goods at such time and by such routes as may be set forth in the directions ;

- (e) prescribe the conditions subject to which, and the rates at which, any vehicle may be hired for the purpose of road transport and persons or goods may be carried by road, and the conditions subject to which goods so carried or to be carried may be discharged or loaded ;
- (f) provide for prohibiting or restricting the carriage of persons or goods of any class by road, and for prescribing the radius or distance, within which person or goods of any class may be carried by road ;
- (g) provide for prohibiting any person or class of person from travelling by any vehicle or class of vehicles ;
- (h) provide for the giving of directions with respect to the carriage of persons or goods on any particular vehicle, or by any particular routes, or to any particular clearing house or depot ;
- (i) provide for prohibiting or restricting the carriage of persons or goods by any vehicle or class of vehicles, either generally or between any particular places or on any particular routes ;
- (j) provide for the regulation of the priority in which persons and goods are to be carried by road and vehicles are to be used for the purpose of road transport ;
- (k) make such other provisions in relation to road transport as appear to the Provincial Government to be necessary or expedient for securing the public safety, the maintenance of public order, or for maintaining supplies and services essential to the life of the community.

(3) The provisions of this section shall also apply in relation to water transport and vessels used or capable of being used for the purpose of water transport as they apply in relation to road transport and vehicles.

(4) If any person contravenes any order made in pursuance of this section, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

of 1958.]

(Sections 38—41.)

CHAPTER VIII

Supplementary and Procedural.

38. Any person who attempts to contravene, or abets, or attempts to abet, or does any act preparatory to, a contravention of, any of the provisions of this Ordinance or of any order made thereunder, shall be deemed to have contravened that provision or, as the case may be, that order.

Attempts, etc., to contravene the provisions of this Ordinance.

39. (1) In any area in which the Provincial Government, as a consequence of apprehended danger to the public in such area, notifies in this behalf, any police officer may in any road, street, alley, public place, or open space, stop and search any person in such area for the purpose of ascertaining whether such person is carrying, in contravention of any law for the time being in force, any explosive or corrosive substance or liquid or any weapon of offence or any article which may be used as a weapon of offence and may seize any such substance or liquid together with its container, if any, or any such weapon or article discovered during such search :

Special provision for searches.

Provided that every such search shall be made with due regard to decency, and that no woman shall be searched except by a woman.

(2) Anything seized under sub-section (1) shall be produced without delay before a Magistrate who may give such direction as to its temporary custody as he may think fit, so however that, where no prosecution in respect of the possession of such thing is instituted within a period in his opinion reasonable, the Magistrate may, subject to the provisions of any other law for the time being in force, give such orders as to the final disposal of such thing as he deems expedient.

40. Any police officer may arrest without warrant any person who is reasonably suspected of having committed, or of committing a contravention of—

General power of arrest without warrant.

(a) any order made under section 14, or

(b) section 24, or

(c) section 35 or any order made under section 35.

41. (1) Any police officer not below the rank of Sub-Inspector or any other officer of Government empowered in this behalf by general or special order of the Provincial Government, may arrest without warrant any person whom he reasonably suspects of having done, or of doing, or of being about to do, a prejudicial act.

(Section 42.)

(2) Any officer who makes an arrest in pursuance of sub-section (1) shall forthwith report the fact of such arrest to the Provincial Government, and, pending the receipt of the orders of the Provincial Government, may, by order in writing, commit any person so arrested to such custody as the Provincial Government may, by general or special order, specify :

Provided—

- (i) that no person shall be detained in custody under this sub-section for a period exceeding thirty days without the order of the Provincial Government; and
- (ii) that no person shall be detained in custody under this sub-section for a period exceeding two months.

(3) On receipt of any report made under the provisions of sub-section (2), the Provincial Government may, in addition to making such order, subject to clause (ii) of the proviso to sub-section (2), as may appear to be necessary for the temporary custody of any person arrested under this section, make, in exercise of any power conferred upon it by any law for the time being in force, such final order as to his detention, release, residence or any other matter concerning him as may appear to the Provincial Government in the circumstances of the case to be reasonable or necessary.

Cognizance of contraventions of the provisions of the Ordinance or orders made thereunder.

42. (1) Save as otherwise provided in this Ordinance, no Court shall take cognizance of any alleged contravention of the provisions of this Ordinance or any order made thereunder, except on receipt in writing of the facts constituting such contravention, made by a public servant.

(2) Proceedings in respect of a contravention of the provisions of this Ordinance alleged to have been committed by any person may be taken before the appropriate Court having jurisdiction in the place where that person is for the time being.

(3) Notwithstanding anything contained in Schedule II to the Code of Criminal Procedure, 1898, a contravention of section 6 shall be triable by a Court of Sessions or a Magistrate of the first class. V of 1

(4) Any Magistrate or bench of magistrates empowered for the time being to try in a summary way the offences specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898, may, if such magistrate or bench of magistrates thinks fit, on application in this behalf V of 1

of 1958.]

(Sections 43—45.)

being made by the prosecution, try a contravention of any such provisions of this Ordinance or orders made thereunder as the Provincial Government may, by notified order, specify in this behalf, in accordance with the provisions contained in section 265 of the said Code.

43. (1) Any authority, officer, or person who is empowered by or in pursuance of the provisions of this Ordinance to make any order or to exercise any other power may, in addition to any other action prescribed by or under this Ordinance, take or cause to be taken, such steps and use, or cause to be used, such force as may, be reasonably necessary for securing compliance with, or for preventing or rectifying any contravention of, such order or for the effective exercise of such power. Power to give effect to orders, etc.

(2) Where, in respect of any of the provisions of this Ordinance, there is no authority, officer or person empowered to take action under sub-section (1), the Provincial Government may take, or cause to be taken, such steps and use, or cause to be used, such force as may in the opinion of the Provincial Government be reasonably necessary for securing compliance with, or preventing or rectifying any breach of, such provision.

(3) For the avoidance of doubt it is hereby declared that the power to take steps under sub-section (1) or under sub-section (2) includes the power to enter upon any land or other property whatsoever.

Act V of 1898. 44. (1) Subject to the provisions of section 491 of the Code of Criminal Procedure, 1898, no order made in exercise of any power conferred by or under this Ordinance shall be called in question in any Court. Savings as to orders.

I of 1872. (2) Where an order purports to have been made and signed by any authority in exercise of any power conferred by or under this Ordinance, a Court shall, within the meaning of the Evidence Act, 1872, presume that such order was so made by that authority.

45. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Ordinance or any order made thereunder. Protection of action taken under the Ordinance.

(2) No suit or other legal proceeding shall lie against the Provincial Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Ordinance or any order made thereunder.

Delegation
of powers
and duties of
the Provin-
cial Govern-
ment.

46. The Provincial Government may, by notified order, direct that any power or duty which is conferred or imposed by this Ordinance upon the Provincial Government, shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged also by any officer or subordinate to the Provincial Government.

Rule making
power .

47. (1) The Provincial Government may make rules for carrying out the purposes of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) conditions of detention including conditions as to maintenance, discipline and the punishment of offences and breaches of discipline ;
- (b) manner of executing warrants and summary determination of claims referred to in the proviso to clause (a) of sub-section (5) of section 31 ;
- (c) the form of the order of requisition under sub-section (1) of section 34 ;
- (d) manner of assessment and payment of compensation referred to in sub-section (4) of section 34 ;
- (e) the procedure to be followed in arbitration and the principles to be followed in apportioning the costs of proceedings before the arbitrator and on appeal referred to in section 34 ;
- (f) the form of the notice of release referred to in sub-section (7) of section 34 ;
- (g) the conditions and rates referred to in clause (e) of sub-section (2) of section 37 ; and
- (h) the radius and distance referred to in clause (f) of sub-section (2) of section 37.

Repeal and
savings.

48. (1) The East Pakistan Prevention of Prejudicial Acts Ordinance, 1958, is hereby repealed.

(2) Any order passed or anything done or any action taken or any proceeding commenced under the provision of the East Pakistan Prevention of Prejudicial Acts Ordinance, 1958 shall continue in force and be deemed to have been passed, done, taken or commenced, as the case may be, under the corresponding provision of this Ordinance.

E. P.
Ord.
No.
LXXVIII
of 1958.

E. P.
Ord. No.
LXXIII
of 1958.

East Pakistan Ordinance No. LXXXII of 1958.

**THE EAST PAKISTAN FINANCE (THIRD) ORDINANCE,
1958.**

[26th December, 1958.]

An Ordinance to raise funds for the augmentation of the revenues of the Province and for that purpose to levy certain taxes.

WHEREAS it is expedient to raise funds for augmentation of the revenues of the Province and for that purpose to levy certain taxes as hereinafter provided ;

Now, THEREFORE, in pursuance of the Presidential Proclamation of the 7th day of October, 1958 and in exercise of the powers enabling him in that behalf, the Governor is pleased to make and promulgate the following Ordinance, namely :—

1. (1) This Ordinance may be called the East Pakistan Finance (Third) Ordinance, 1958. Short title and extent.

(2) It extends to the whole of East Pakistan.

2. (1) There shall be levied and collected by the Provincial Government a development and relief tax from every tenant at the rate of four annas on each rupee of rent payable by him in respect of the land comprised in his tenancy with effect from the 1st day of Baishakh, 1365 : Levy of development and relief tax.

Provided that when such land is held free of rent, such development and relief tax shall be levied and collected at the rate of four annas on each rupee of rent that would be assessable on such land on the principles laid down in section 26 of the East Bengal State Acquisition and Tenancy Act, 1950.

B. Act
XVIII
1951.

(2) The development and relief tax levied under subsection (1) shall be realised in the manner in which rent is realised by the Provincial Government.

(Section 3.)

Levy of additional stamp duty and manner of realisation.

13. (1) Notwithstanding anything contained in the Stamp Act, 1899, every instrument of conveyance as defined in clause (10) of section 2 of that Act and not being a transfer charged or exempted under Article 62 of Schedule 1A to that Act, shall be chargeable with additional stamp duty

Act II of 1899.

¹During the period from the 1st day of July, 1959 to the 30th day of June, 1960 (both days inclusive), the East Pakistan Finance (Third) Ordinance, 1958 (E. P. Ord. No. LXXXII of 1958) shall have effect as if for section 3 thereof the following were substituted therefor:—

“Levy of additional stamp duty and manner of realisation.

3. (1) Notwithstanding anything contained in the Stamp Act, 1899, every instrument of conveyance as defined in clause (10) of section 2 of that Act and not being a transfer charged or exempted under Article 62 of Schedule 1A to that Act, shall be chargeable with additional stamp duty under this Ordinance at the following rate in addition to the duty chargeable under the provision of that Act :—

II of 1899.

Of the amount or value of the consideration as set forth in such conveyance.

Rate of additional stamp duty.

On the first Rs.10,000	..	One per cent. of such amount or value.
On the next Rs.10,000	..	10 per cent. of such amount or value.
On the next Rs.20,000	..	12 per cent. of such amount or value.
On the next Rs.35,000	..	15 per cent. of such amount or value.
On the next Rs.75,000	..	20 per cent. of such amount or value.
On any additional amount	..	25 per cent. of such amount or value.

(2) The additional stamp duty specified in sub-section (1) shall be chargeable in respect of every instrument of—

- (a) Exchange of Property (Article 31),
- (b) Gift (Article 33), not being an instrument of Settlement under Article 58 or Will or Transfer under Article 62,
- (c) Lease including an under-lease or sub-lease which purports to be for a term exceeding 100 years or in perpetuity under Article 35 (a) (vii),
- (d) Mortgage-deed under Article 40(a), not being an Agreement relating to deposit of Title-deeds, Pawn or Pledge under Article 6, Bottomry Bond under Article 16, Mortgage of a Crop under Article 41, Respondentia Bond under Article 56 or Security Bond under Article 57, when possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given,
- (e) Power of Attorney as defined in clause (21) of section 2 of the Stamp Act, 1899, not being a proxy, when given for consideration and authorising the Attorney to sell any immovable property under Article 48(f).

II of 1899.

Explanation—Reference to Article in this sub-section shall be construed as reference to the Article of the Schedule 1A to the Stamp Act, 1899.

II of 1899.

(3) The amount or value of the consideration of the instrument, mentioned in sub-section (2) shall be determined in accordance with the provision of the Stamp Act, 1899.

II of 1899.

(4) All the provisions of the Stamp Act, 1899, and the rules made thereunder shall apply in respect of additional stamp duty chargeable under the provisions of this section, as if the additional stamp duty imposed under this section is a duty chargeable under the provisions of that Act (*vide* E. P. Ord. No. XLVI of 1959, section 10)."

II of 1899.

(Section 3.)

under this Ordinance at the following rate in addition to the duty chargeable under the provision of that Act :—

Of the amount or value of the consideration as set forth in such conveyance.	Rate of additional stamp duty.
On the first Rs.10,000 ..	Nil.
On the next Rs.10,000 ..	10 per cent. of such amount or value.
On the next Rs.20,000 ..	12 per cent. of such amount or value.
On the next Rs.35,000 ..	15 per cent. of such amount or value.
On the next Rs.75,000 ..	20 per cent. of such amount or value.
On any additional amount	25 per cent. of such amount or value.

(2) The additional stamp duty specified in sub-section (1) shall be chargeable in respect of every instrument of—

- (a) Exchange of Property (Article 31),
- (b) Gift (Article 33), not being an instrument of Settlement under Article 58 or Will or Transfer under Article 62,
- (c) Lease including an under-lease or sub-lease which purports to be for a term exceeding 100 years or in perpetuity under Article 35(a)(vii),
- (d) Mortgage-deed under Article 40(a), not being an Agreement relating to deposit of Title-deeds, Pawn or Pledge under Article 6, Bottomry Bond under Article 16, Mortgage of a Crop under Article 41, Respondentia Bond under Article 56 or Security Bond under Article 57, when possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given,
- (e) Power of Attorney as defined in clause (21) of section 2 of the Stamp Act, 1899, not being a proxy, when given for consideration and authorising the Attorney to sell any immovable property under Article 48(f).

Explanation—Reference to Article in this sub-section shall be construed as reference to the Article of the Schedule 1A to the Stamp Act, 1899.

(Sections 3, 4.)

(3) The amount or value of the consideration of the instruments mentioned in sub-section (2) shall be determined in accordance with the provisions of the Stamp Act, 1899. II of 1899.

(4) All the provisions of the Stamp Act, 1899, and the rules made thereunder shall apply in respect of additional stamp duty chargeable under the provisions of this section, as if the additional stamp duty imposed under this section is a duty chargeable under the provisions of that Act. II of 1899.

Repeal of
section 2 of
E.P. Act XII
of 1958.

4. Section 2 of the East Pakistan Finance (Supplementary) Act, 1958 is hereby repealed.

of 1959.]

(Sections 6—8.)

6. The Provincial Government may, by notification remove the Chairman or any member—

Removal of
Chairman or
Members.

(a) if he refuses or fails to discharge or becomes, in the opinion of the Provincial Government, incapable of discharging his responsibilities under this Ordinance; or

(b) if he has been declared insolvent; or

(c) if he has been declared to be disqualified for employment in, or has been dismissed from the service of Pakistan, or has been convicted of an offence involving moral turpitude; or

(d) if he has knowingly acquired or continued to hold, without the permission in writing of the Provincial Government, directly or indirectly or through a partner, any share or interest in any contract or employment with or by or on behalf of the Authority, or in any land or property which, in his knowledge, is likely to benefit or has benefited as a result of the operation of the Authority.

7. (1) The Authority shall meet at such time and place and in such manner, as may be prescribed:

Meeting.

Provided that until rules are made in this behalf, such meeting shall be convened by the Chairman.

¹[(2) The Chairman, or in his absence a Member authorised by him, and one other Member shall be present to form a quorum at a meeting of the Authority.]

(3) The Chairman shall have power to vote in a meeting of the Authority and in the case of equality of votes, he shall have a casting vote also.

CHAPTER III.

Powers and Duties of the Authority.

8. (1) The Authority shall prepare, for the approval of the Provincial Government, a comprehensive plan for the development and utilisation of the Water and Power Resources of East Pakistan on a unified and multi-purpose basis.

General
powers and
duties of the
Authority
and framing
of schemes.

¹This sub-section was substituted for the original sub-section (2) by the East Pakistan Water and Power Development Authority (Second Amendment) Ordinance, 1959 (E. P. Ord. No. XLVIII of 1959), section 3.

(Section 8.)

(2) The Authority shall have power to take up any work as contemplated in sub-section (3) and realise levy thereof subject to the approval of the Provincial Government.

(3) The Authority may frame a scheme or schemes for the Province of East Pakistan or any part thereof providing for all or any of the following matters, namely:—

- (a) Construction of dams, barrages, reservoirs and other original works, Irrigation, Embankment and Drainage, bulk water supply to communities and recreational use of water resources;
- (b) Flood Control including water-shed management;
- (c) The prevention of salinity, water congestion and reclamation of land;
- (d) Except within the limits of sea-ports, the maintenance, improvement and extension of channels for Inland Water Transport, including dredging of channels, but excluding all such operations as may be carried out by the East Pakistan Inland Water Transport Authority;
- (e) Regulation of channels to concentrate river flow for more efficient movement of water, silk and sand, excluding all such operations as may be carried out by the East Pakistan Inland Water Transport Authority;
- (f) The generation, transmission, distribution of power; and the construction, maintenance and operation of power houses and grids.

(4) Every such scheme prepared by the Authority under sub-section (3) shall be submitted, for approval, to the Provincial Government with the following information:—

- (a) A description of the scheme and the manner of its execution;
- (b) An estimate of costs and benefits; the allocation of costs to the various purposes to be served by the scheme and the amounts to be paid by the beneficiaries; and
- (c) A statement of the proposals by the Authority for the resettlement or rehousing, if necessary, of persons likely to be displaced by the execution of the scheme.

of 1959.]

(Sections 9—11.)

(5) The Provincial Government may sanction or may refuse to sanction, or may return for reconsideration any scheme submitted to it under this section, or may call for such further details or information about the scheme, or may direct such further examination of the scheme as it may consider necessary.

9. (1) Any scheme framed by an agency in East Pakistan other than the Authority, in respect of any of the matters enumerated in sub-section (3) of section 8, if its estimated cost exceeds the amount to be prescribed by the Provincial Government, shall be submitted to the Provincial Government through the Authority and the Provincial Government may pass any of the orders contemplated by sub-section (5) of section 8.

Scheme framed by other agencies.

(2) The Authority may, with the approval of the Provincial Government, undertake the execution of any scheme, or exercise technical supervision and administrative and financial control over the execution of any scheme framed or sponsored by any agency in respect of the matters enumerated in sub-section (3) of section 8.

10. The Authority, if it considers it necessary or expedient for carrying out purposes of this Ordinance, may—

Survey and experiments.

(a) train personnel, cause studies, surveys, experiments or technical research to be made; or

(b) contribute towards the costs of any such studies, surveys, experiments or technical research made by any other agency.

¹[10A. On and from such date as the Provincial Government may, by notification, declare, subject to such terms and conditions as it may determine, all assets including lands and buildings, works, machinery, apparatus, materials and plants of such works, projects or schemes of the Irrigation Directorate of the Works, Housing and Settlement Department and of Electricity Directorate of Commerce, Labour and Industries Department, as may be made over by the Provincial Government to the Authority, shall vest in the Authority and all liabilities in respect of the said assets shall be the liabilities of the Authority.]

All assets and liabilities of the Irrigation and Electricity Directorates to vest in the Authority.

11. (1) Subject to the provisions of any other law for the time being in force, the Authority,—

Control over Water, Power House and Grids.

(a) shall have control over the flow of water in all rivers and channels of East Pakistan, subject

¹This section was inserted by the East Pakistan Water and Power Development Authority (Second Amendment) Ordinance 1959 (E.P. Ord. No. XLVIII of 1959), section 4.

(Sections 11, 12.)

to private rights, and the underground water resources of any region of the Province, and the operation of all Power Houses and Grids as may be considered necessary for their operation;

- (b) may, with the approval of the Provincial Government, prescribe standards for the operation and maintenance of all Irrigation, Embankment and Drainage works, and for the maintenance of Power Houses and Grids;
- (c) may, with the approval of the Provincial Government, prescribe simplification of methods of charges for supply of electricity and water and for standardisation of the system of supply;
- (d) may, with the prior approval of the Provincial Government and on payment of reasonable compensation, declare any power generating station belonging to a licensee to be a controlled station and thereupon the power to regulate production from such station shall vest in the Authority;
- (e) may require the owner of any controlled power generating station in a grid area—
 - (i) to supply to the grid all or part of the power generated at the station at such rates as may be determined by the Provincial Government by general or special order; in case of dispute this will be referred to arbitration;
 - (ii) to take from the grid all or part of the power required for distribution to consumers, or
 - (iii) to close down the station on payment of reasonable compensation.

(2) Before the Authority exercises any control under clause (a) of sub-section (1), the area over which and the extent to which control is intended to be exercised shall be agreed to and notified by the Provincial Government in the *Official Gazette*.

(3) Nothing in this section shall entitle the Authority to exercise any power in respect of works, power houses or grids owned by the Central Government and established for the exclusive use of any department of that Government or of a Military Cantonment.

Authority to have powers and obligations of a licensee under Act IX of 1910.

12. The Authority shall, for the purposes of the Electricity Act, 1910, be deemed to be a licensee and shall have all the powers and discharge all the obligations of a licensee under the said Act IX of 1910.

of 1959.]

(Section 13.)

13. (1) The Authority may take such measures and exercise such powers as it considers necessary or expedient for the carrying out of the purposes of this Ordinance. Powers re-
garding cer-
tain matters.

(2) Without prejudice to the generality of the power conferred by the preceding sections and to the provisions of sub-section (1) of this section, the Authority, for carrying out the purposes of this Ordinance, may—

- (a) control and operate the dredger fleet, its ancillary craft, appurtenances and equipment including launches, house boats, fuel and water barges, floating and shore workshops, fitted workshop launches, pipe lines, pontoons, pumps, and other construction equipment belonging to the Provincial Government, on such terms and conditions as may be prescribed by the Provincial Government;
- (b) undertake any works, incur any expenditure within the budget or any special allotment, procure plant, machinery and materials required for its use and enter into and perform all such contracts as it may consider necessary or expedient;
- (c) acquire by purchase, lease, exchange or otherwise any land or interest in land and dispose of by sale, lease, exchange or otherwise such land or any interest in such land;
- (d) place wires, poles, wall brackets, stays, apparatus and appliances for the transmission of electricity, or for the transmission of telegraphic or telephonic communications necessary for the proper execution of a scheme;
- (e) direct the owners of private lands—
 - (i) to carry out measures for training of water courses passing through that land;
 - (ii) to undertake anti-erosion operations including conservation of forests and re-afforestation;
- (f) restrict or prohibit by general or special order the clearing and breaking up of land in the catchment area of any river; provided that compensation shall be paid to persons affected by such direction in the manner as may be prescribed;
- (g) direct that any work which has been required to be done by any person under the two preceding clauses and which remains undone, shall, after due notice to such person and after consideration of any objection raised by him, be executed by the authority, and may specify the proportion in

which the risk and expenses of such work shall be borne by any person, or any other person who, after being given a reasonable notice and after such enquiry as the authority considers necessary, is held by the Authority to be responsible for the execution of such work in whole or in part; provided that compensation shall be paid to persons affected by such direction in the manner as may be prescribed;

- (h) seek and obtain advice and assistance in the preparation or execution of a scheme from any local authority or agency of the Provincial Government, and such local authority or agency shall give the advice and assistance sought by the Authority to the best of its ability, knowledge and judgment; provided that the Authority shall pay the cost of such advice and assistance if the giving of such advice and assistance entails additional expenditure to the local authority or the agency.

(3) The acquisition of any land or any interest in land for the Authority under this section, or for any scheme under this Ordinance, shall be deemed to be an acquisition for a public purpose within the meaning of the Land Acquisition Act, 1894, or any other Act for the time being in force and the provisions of the said Acts shall apply to all such proceedings. 1 of 1894.

14. (1) The Chairman or any person authorised by him in writing may, after serving due notice to the owner, enter upon and survey any land, erect pillars for the determination of intended lines of works, make borings and excavations, and do all other acts which may be necessary for the preparation of any scheme : Power of entry, etc.

Provided that when the affected land does not vest in the Authority, the power conferred by this sub-section shall be exercised in such manner as to cause the least interference with, and the least damage to, the rights of the owner thereof.

(2) When any person enters into or upon any land in pursuance of sub-section (1), he shall, at the time of entering or, as soon thereafter as may be practicable, pay or tender payment for all necessary damage to be done as aforesaid, and in case of dispute as to the sufficiency of the amount so paid or tendered, the dispute shall be referred to the District Officer whose decision shall be final.

of 1959.]

(Sections 20—22.)

officers and servants of the Authority in respect of anything done or intended to be done, in good faith, under this Ordinance/

20. The Authority may, by general or special order, delegate to the Chairman, a member, or officer of the Authority, any of its powers, duties or functions under this Ordinance subject to such conditions as it may think fit to impose. Delegation of powers to Chairman, etc.

CHAPTER V

Reports and Statements

21. (1) The Authority shall submit to the Provincial Government, as soon as possible but within three months after the end of every financial year, a report on the conduct of its affairs for that year. Submission of yearly reports and returns, etc.

(2) The Government may require the Authority to furnish—

- (a) any return, statement, estimate, statistics or other information regarding any matter under the control of the Authority, or
- (b) a report on any such matter, or
- (c) a copy of any document in the charge of the Authority; and the Authority shall comply with every such requisition.

CHAPTER VI

Finance

22. (1) There shall be a fund to be known as the "Water and Power Development Authority Fund" vested in the Authority which shall be utilised by the Authority to meet charges in connection with its functions under this Ordinance including the payment of salaries and other remunerations to the Chairman and members of the Authority and to its officers and servants. Authority Fund.

(2) The Water and Power Development Authority Fund shall consist of—

- (a) grants made by the Government;
- (b) loans obtained from the Government;
- (c) grants made by local Authorities;

(Sections 23—27.)

- (d) sale-proceeds of bonds issued under the Authority of the Provincial Government;
- (e) loans obtained by the Authority with the special or general sanction of the Government;
- (f) foreign aid and loans obtained, with the sanction of, and on such terms and conditions as may be approved by the Provincial Government; and
- (g) improvement or betterment levy, water rate, sale-proceeds of electricity and toll as may be prescribed by Government; and
- (h) all other sums received by the Authority.

Authority to be deemed a local authority.

23. The Authority shall be deemed to be a local authority under the Local Authorities Loans Act, 1914 for the purpose of borrowing money under the said Act and the making and an execution of any scheme under this Ordinance shall be deemed to be a work which such Authority is legally authorised to carry out.

IX o
1914.

Limited liability.

24. The liability of the Provincial Government to the creditors of the Authority shall be limited to the extent of grants made by the Provincial Government and the loans raised by the Authority with the sanction of the Provincial Government.

Power sale.

25. (1) The Authority will ordinarily sell power and water in bulk.

(2) The rates at which the Authority shall sell power and water shall be so fixed as to provide for meeting the operating costs, interest charges and depreciation of assets, the redemption at due time of loans other than those covered by depreciation, the payment of any taxes and a reasonable return on investment.

Maintenance of accounts.

26. The Authority shall maintain complete and accurate books of accounts in such form as may be prescribed by it:

Provided that separate accounts shall be maintained for all schemes and transactions relating to Water and to Power.

Annual statement of accounts.

27. (1) The Authority shall, before three months of the expiry of financial year, submit to the Provincial Government, for approval, a statement of estimated receipts and expenditure in respect of the next financial year.

of 1959.]

(Sections 28—31.)

(2) On its receipt the budget estimate will be examined by the Provincial Government who may—

(a) accept it, or

(b) disallow it or a portion thereof and return it to the Authority for amendment.

(3) If any budget estimate or a portion thereof is so returned, the Authority shall forthwith proceed to amend it and shall resubmit it after amendment to the Provincial Government in time so that Provincial Government approval may be communicated before the commencement of the next financial year.

Audit.

28. The Accounts of the Authority shall be audited every year by the Comptroller and Auditor-General in such manner as may be prescribed. Copies of the Audit report shall be sent to the Authority, and, with the comments of the Authority, to the Provincial Government and shall also be available for public inspection. The Authority shall carry out any directive issued by the Provincial Government for rectification of an audit objection.

Recovery.

29. The Authority shall have power to realise its dues from any person under the Public Demands Recovery Act, 1913 as a public demand.

Ben. Act
III of
1913.

Rule-making power.

30. The Provincial Government may make rules after previous publication in the *Official Gazette*, for carrying out the purposes of this Ordinance.

Power to make regulations.

31. The Authority may, with the previous approval of the Provincial Government, make regulations not inconsistent with this Ordinance or the rules made thereunder to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Ordinance.

East Pakistan Ordinance No. III of 1959.

**THE HACKNEY CARRIAGE (EAST PAKISTAN
AMENDMENT) ORDINANCE, 1959.**

[3rd January, 1959.]

*An Ordinance further to amend the Hackney Carriage
Act, 1919.*

Whereas it is expedient further to amend the Hackney Carriage Act, 1919, in the manner and for the purpose hereinafter appearing;

Ben. Act 1
of 1919.

And in pursuance of the Presidential Proclamation of the 7th day of October, 1958 and in exercise of the powers enabling him in that behalf, the Governor is pleased to make and promulgate the following Ordinance, namely:—

Short title. 1. This Ordinance may be called the Hackney Carriage (East Pakistan Amendment) Ordinance, 1959.

Amendment of Ben. Act I of 1919. 2. The Hackney Carriage Act, 1919 (hereinafter referred to as the said Act), shall be amended in the manner hereinafter provided. Ben. Act I^s of 1919.

3 and 4. [Repealed by the East Pakistan Repealing and Amending Ordinance, 1960 (E. P. Ord. XXVIII of 1960)].

Validation of fees already realised. 5. All fees realised in the past for licences and renewal thereof in respect of rickshaws shall be deemed to have been validly realised under the said Act, as amended by this Ordinance.

East Pakistan Ordinance No. V of 1959.

THE EAST PAKISTAN TRANSFER OF IMMOVABLE
PROPERTY (RELAXATION OF RESTRICTION)
ORDINANCE, 1959.

[3rd January, 1959.]

*An Ordinance to provide for the relaxation of restrictions
on the transfer of immovable properties in certain cases..*

WHEREAS it is expedient to make provision for the relaxation of restrictions on the transfer of immovable property with a view to ¹[enabling persons in East Pakistan to secure loans from any Scheduled institution], on the security of their immovable properties;

Now, therefore, in pursuance of the Presidential Proclamation of the 7th day of October, 1958 and in exercise of the powers enabling him in that behalf, the Governor is pleased to make and promulgate the following Ordinance, namely:—

1. (1) This Ordinance may be called the East Pakistan Transfer of Immovable Property (Relaxation of Restriction) Ordinance, 1959.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of East Pakistan.

(3) It shall come into force at once.

²[2. (1) "Scheduled institution" means an institution mentioned in the schedule appended to this Ordinance.

Interpreta-
tion.

(2) The Provincial Government may, by notification in the *Official Gazette*, add to, or omit from, the said schedule the name of any institution.]

E. B. Act
XXVIII
of 1951.
Act VIII
of 1885.

³[3. Notwithstanding anything contained in sections 9, 90, 95 and 97 of the East Bengal State Acquisition and Tenancy Act, 1950, section 26G and Chapter VIIA of the Bengal Tenancy Act, 1885, section 34 of the Sylhet

Relaxation
of restric-
tions on the
transfer of
immovable
property.

¹The words within square brackets were substituted for the words "enabling the agricultural concerns and the agriculturists of East Pakistan to secure loans from the Agricultural Development Finance Corporation or the Agricultural Bank of Pakistan" by the East Pakistan Transfer of Immovable Property (Relaxation of Restriction) (Amendment) Ordinance, 1959 (E. P. Ord. No. LIX of 1959), section 3.

²This section was substituted for original section 2 by section 4, *ibid.*

³This section was substituted for the original section 3 by section 5, *ibid.*

(Sections 4,5.)

Tenancy Act, 1936, and section 3 of the East Bengal Transfer of Agricultural Land Act, 1951, it shall be lawful for any person to pledge, mortgage, hypothecate or assign immovable property of the descriptions and up to the quantity which he is entitled to retain under section 20 of the East Bengal State Acquisition and Tenancy Act, 1950, to any scheduled institution in order to secure a loan from such institution and such institution shall be competent to deal with, in accordance with the provisions of the Act establishing the said institution, any immovable property so pledged, mortgaged, hypothecated or assigned:

Assam Act XI of 1936.

E. B. Act XXXIII of 1951.

E.B. Act XXVIII of 1951.

Provided that in any area where section 90 of the East Bengal State Acquisition and Tenancy Act, 1950, is in force, the sale of any such immovable property by or on behalf of any scheduled institution for satisfying its dues shall be subject to the provisions of that section:

E.B. Act XXVIII of 1951.

Provided further that the provisions of the said section shall not apply in cases where any such immovable property is purchased by any scheduled institution for satisfying its dues.]

Procedure for application for loan from the Corporation or the Bank.

4. (1) ¹[Any person intending to secure a loan from a scheduled institution] shall apply to the Revenue-officer appointed by the Provincial Government in this behalf, for exercising choice under sub-section (3) of section 20 of the East Bengal State Acquisition and Tenancy Act, 1950, if such choice has not already been exercised and for the grant of a certificate showing the details of the lands allotted to him under the said sub-section.

E. B. Act XXVIII of 1951.

(2) In disposing of such application, the Revenue-officer shall follow such procedure as may be prescribed by rules by the Provincial Government.

Calculation of retainable quantity of land.

5. In calculating the retainable quantity of land under section 20 of the East Bengal State Acquisition and Tenancy Act, 1950, for the purpose of granting a certificate under section 4, the lands of retainable classes as mentioned in sub-section (2) of the said section 20, already mortgaged by the applicant to ²[a scheduled institution] and also the

E. B. Act XXVIII of 1951.

¹The words within square brackets were substituted for the words and commas "An agricultural concern or an agriculturist intending to secure a loan from the Corporation or from the Bank, as the case may be," by the East Pakistan Transfer of Immovable Property (Relaxation of Restriction) (Amendment) Ordinance, 1959 (E. P. Ord. No. LIX of 1959), section 6.

² The words within square brackets were substituted for the words "the Corporation or to the Bank" by section 7, *ibid*.

(Sections 6, 7 and the Schedule.)

lands of such classes transferred by the applicant with the permission of the proper authority under any law subject to the condition that an equivalent quantity of land will be deducted from the quantity of land retainable by the applicant under the said section 20 shall be taken into account.

6. The East Bengal Transfer of Immovable Property (Relaxation of Restriction) Act, 1953, is hereby repealed. Repeal of
E. B. Act
XXI of
1953.

7. The Provincial Government may make rules for carrying out the purposes of this Ordinance. Power to
make rules.

¹[SCHEDULE

(See section 2.)

- (1) Agricultural Development Finance Corporation established under the Agricultural Development Finance Corporation Act, 1952. Act XVII of
1952.
- (2) The House-Building Finance Corporation established under the House-Building Finance Corporation Act, 1952. Act XVIII of
1952.
- (3) The Agricultural Bank of Pakistan established under the Agricultural Bank Act, 1957. Act XXIII of
1957.]

¹The Schedule was added by the East Pakistan Transfer of Immovable Property (Relaxation of Restriction) (Amendment) Ordinance, 1959 (E. P. Ord. No. LIX of 1959), section 8.

East Pakistan Ordinance No. VI of 1959.

THE SAIRAT MAHALS (MANAGEMENT) ORDINANCE, 1959.

[12th January, 1959.]

E.B. Act
XXVIII
of 1951.

WHEREAS shares in some *hats*, *bazars*, fisheries and ferries, have vested in the Provincial Government as a result of acquisition of interests under provisions of the East Bengal State Acquisition and Tenancy Act, 1950, or otherwise;

AND WHEREAS joint ownership of such *hats*, *bazars*, fisheries and ferries by the Provincial Government along with others has often led and is likely to lead to unnecessary litigation, double realisation of tolls, breach of the peace and harassment to the public in other ways;

AND WHEREAS with a view to removing such difficulties, it is necessary to make provisions for the management and control by the Provincial Government of the shares of such *hats*, *bazars*, fisheries and ferries held by others;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the 7th day of October, 1958 and in exercise of all powers enabling him in that behalf, the Governor is pleased to make and promulgate the following Ordinance, namely:—

1. (1) This Ordinance may be called the *Sairat Mahals* (Management) Ordinance, 1959.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of East Pakistan.

(3) It shall come into force at once.

E. B. Act
XXVIII
of 1951.

2. (1) Where any share of any *hat*, *bazar*, fishery or ferry has vested in the Provincial Government as a result of acquisition under the East Bengal State Acquisition and Tenancy Act, 1950, or otherwise, the Provincial Government may, by notification in the *Official Gazette*, assume the right of possession, management and control of the remaining share or shares of such *hat*, *bazar*, fishery or ferry.

Assumption
of possessions
manage-
ment and
control by
the Provin-
cial Govern-
ment.

(2) Immediately upon the publication of a notification under sub-section (1), the right of possession, management and control of such share or shares in the *hat*, *bazar*, fishery or ferry shall pass on to the Provincial Government.

(3) Where the right of possession, management and control of any share in any *hat*, *bazar*, fishery or ferry has passed on to the Provincial Government under sub-section (2), the owner of such share shall, from the

[E. P. Ord. No. VI of 1959.]

(Sections 3—5.)

date of such passing on till the date of vesting of such share in the Provincial Government as a result of acquisition under the provisions of the East Bengal State Acquisition and Tenancy Act, 1950, or otherwise, receive from the Provincial Government in respect of such share as compensation for use and occupation for each year or part of a year an amount which will bear such proportion to the net income realised by the Provincial Government for the entire property for that year or part of a year as such share bears to the whole property.

E. B. Ac.
XXVIII
of 1951.

(4) In calculating the net income referred to in sub-section (3) for any such property for any year or part of a year, there shall be deducted from the gross proceeds received by the Provincial Government from such property on account of such year or part of a year,—

- (a) any rent payable on account of such year or part of a year for such property to any superior landlord whose interests have not been acquired;
- (b) all expenses incurred for *khas* management of the property where the Provincial Government manages the property in *khas*;
- (c) in case the property is let out by the Provincial Government, the cost of advertisement and holding the sale, any refund or abatement that may have to be made to the lessee under the terms of the lease and other expenses, if any, incurred by the Provincial Government in connection with the management of such property.

Bar to the
jurisdiction
of Courts.

3. No Court shall entertain any suit or proceeding to restrain the Provincial Government from assuming the right of possession, management and control of any share in any *hat*, *bazar*, fishery or ferry in pursuance of any notification issued under sub-section (1) of section 2.

Relinquish-
ment of pos-
session,
management,
etc.

4. The Provincial Government may, at any time, by notification in the *Official Gazette*, relinquish possession, management and control of a share or shares of which possession, management and control have been assumed under section 2 and upon publication of such notification, the right of possession, management and control shall pass back to the previous owners.

Power to
make rules.

5. The Provincial Government may, by notification in the *Official Gazette*, make rules for the purpose of carrying into effect the provisions of this Ordinance.

East Pakistan Ordinance No. X of 1959.

**THE BENGAL PUBLIC DEMANDS RECOVERY
(EXTENSION TO SYLHET) ORDINANCE, 1959.**

[21st January, 1959.]

**Ben. Act
III of
1913.** WHEREAS it is expedient to extend to the district of Sylhet the provisions of the Bengal Public Demands Recovery Act, 1913 as now applicable to East Pakistan except the district of Sylhet, and for that purpose to amend the said Act in the manner hereinafter appearing;

Now, therefore, in pursuance of the Presidential Proclamation of the 7th day of October, 1958 and in exercise of all powers enabling him in that behalf, the Governor is pleased to make and promulgate the following Ordinance, namely :—

1. (1) This Ordinance may be called the Bengal Public Demands Recovery (Extension to Sylhet) Ordinance, 1959. **Short title and commencement.**

' (2) It shall come into force at once.

2. In section 1 of the Bengal Public Demands Recovery Act, 1913 as now applicable to East Pakistan except the district of Sylhet, *for* sub-section (3), the following shall be *substituted*, namely :— **Amendment of section 1 of Ben. Act III of 1913.**

“(3) It extends to the whole of East Pakistan.”

3. Assam Government notification No. 10R., dated the 3rd January, 1920, is hereby rescinded. **Rescission of Assam Government Notification No. 10 R., dated the 3rd January, 1920.**

East Pakistan Ordinance No. XI of 1959.

**THE EAST PAKISTAN CRIMINAL LAWS (EXTENSION
TO SYLHET) ORDINANCE, 1959.**

[24th January, 1959.]

An Ordinance to extend the provisions of certain Bengal Laws to the district of Sylhet.

WHEREAS it is expedient to extend the provisions of certain Bengal Laws to the district of Sylhet;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the 7th day of October, 1958 and in exercise of the powers enabling him in that behalf, the Governor is pleased to make and promulgate the following Ordinance, namely:—

1. (1) This Ordinance may be called the East Pakistan Criminal Laws (Extension to Sylhet) Ordinance, 1959. Short title, extent and commencement.
- (2) It extends to the district of Sylhet.
- (3) It shall come into force at once.
2. The Bengal Acts specified in Schedule I and the rules made thereunder shall apply to the district of Sylhet. Application of certain Bengal Acts and Rules to the district of Sylhet.
3. The Assam Acts specified in Schedule II and the rules framed thereunder are hereby repealed. Repeal of certain Assam Acts and Rules from the district of Sylhet.

SCHEDULE I

Short title.	No. of the Act.
1. The Bengal Criminal Law Amendment (Supplementary) Act, 1925.	Nil.
2. The Bengal Criminal Law (Amendment) Act, 1930.	Ben. Act VI of 1930.
3. The Bengal Suppression of Terrorist Outrages Act, 1932.	Ben. Act XII of 1932.
4. The Bengal Criminal Law (Arms and Explosives) Act, 1932.	Ben. Act XXI of 1932.
5. The Bengal Criminal Law Amendment Act, 1934.	Ben. Act VII of 1934.

SCHEDULE II.

Short title.	No. of the Act.
1. The Assam Criminal Law Amendmemt Act, 1934.	Assam Act III of 1934.
2. The Assam Criminal Law Amendment Act, 1935.	Assam Act VII of 1935.
3. The Assam Criminal Law Amendment Act, 1936.	Assam Act II of 1936.

East Pakistan Ordinance No. XII of 1959.

THE EAST PAKISTAN CATTLE (PREVENTION
OF TRESPASS) ORDINANCE, 1959.

[24th January, 1959.]

WHEREAS it is expedient to supplement the law relating to trespass and damage of crops by cattle ;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the 7th day of October, 1958 and in exercise of all powers enabling him in that behalf, the Governor of East Pakistan is pleased to make and promulgate the following Ordinance, namely:—

1. (1) This Ordinance may be called the East Pakistan Cattle (Prevention of Trespass) Ordinance, 1959.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of East Pakistan.

(3) It shall come into force on such date¹ and in such areas¹ as the Provincial Government may, by notification in the *Official Gazette*, direct.

2. (1) Any Police officer may take charge of any cattle which may be found straying in any street or trespassing on any land, and doing damage thereto or to the crop or produce thereon and may take or send the same to the nearest pound.

Prevention of
trespass and
damage by
cattle.

(2) If any cattle is found straying in a street or trespassing on any land or doing damage thereto or to any plant or crop or produce thereon with the knowledge or connivance of the keeper or where there is no keeper, the owner, such keeper or owner, as the case may be, shall, on conviction by a Magistrate, be punishable with fine which may extend to Rs.200.

3. (1) All words and expressions used in this Ordinance and defined in the Cattle Trespass Act, 1871, shall be deemed to have the meanings respectively attributed to them by that Act.

Interpreta-
tion.

(2) The provisions of this Ordinance shall be in addition to and not in derogation of the provision of the Cattle Trespass Act, 1871.

¹The Ordinance came into force throughout the whole of East Pakistan with effect from the 9th April, 1959, *vide* Notification No. 984-Agri., dated the 30th March, 1959, published in the *Dacca Gazette*, Part I, dated 9th April, 1959, page 289.

East Pakistan Ordinance No. XIII of 1959.

THE CULTURABLE WASTE LAND (UTILIZATION)
ORDINANCE, 1959.

[26th January, 1959.]

WHEREAS it is necessary to bring under cultivation culturable waste land with a view to step up production of food ;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the 7th day of October, 1958, and in exercise of all powers enabling him in that behalf, the Governor is pleased to make and promulgate the following Ordinance, namely :—

1. (1) This Ordinance may be called the Culturable Waste Land (Utilization) Ordinance, 1959.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of East Pakistan but shall not apply to any Municipality constituted under the provisions of the Bengal Municipal Act, 1932 or the Assam Municipal Act, 1923.

Ben. Act
XV of
1932.
Assam
Act I of
1923.

(3) It shall come into force at once.

2. In this Ordinance, unless there is anything repugnant in the subject or context,—

Definitions

(i) "Collector" used in relation to any culturable waste land, means the Collector of the district within which such culturable waste land is situated and includes any officer not below the rank of a Subdivisional Magistrate appointed by the Collector to carry out all or any of the functions of a Collector under this Ordinance ;

(ii) "food crops" include vegetables and fruits ;

(iii) "culturable waste land" means any land classified in the record-of-rights published under the Bengal Tenancy Act, 1885, or the East Bengal State Acquisition and Tenancy Act, 1950, as *nutan patit*, *purantan patit*, *layek patit*, *garlayek patit* or *layek jangal* and includes any land which, in the opinion of the Collector, has not been cultivated during the last two preceding years and no preparation for its cultivation has been made on the day of making a declaration under section 3, but does not include land forming part of, or conterminous with, any homestead, farm-house or any place of worship.

Ben. Act
VIII of
1885.
E. B. Act
XXVIII
of 1951.

(Sections 3—9.)

Application
of the
provisions
of this
Ordinance to
culturable
waste land.

3. The Collector may declare that the provisions of this Ordinance shall apply to any culturable waste land and on and from the day of making such declaration the possession of such culturable waste land shall vest in the Collector for a period not exceeding one year from the date of such declaration :

Provided that no such subsequent declaration for any year shall be made more than three months in advance or for a period of more than one year.

Lease of
culturable
waste land.

4. When the possession of any culturable waste land has vested in the Collector, he may lease it out on such terms and conditions as he thinks proper to any person or persons for purpose of cultivation for production of food crops for the period for which the possession has vested in the Collector.

Compensa-
tion.

5. No person shall be entitled to claim any compensation from the Collector on account of any declaration made under section 3 or for leasing out such culturable waste land to any other person by the Collector under section 4.

Right of
lessees over
waste land.

6. Notwithstanding anything contained in any other law for the time being in force no person to whom the Collector leases out any culturable waste land shall acquire any right, title or interest whatsoever therein beyond the period for which it has been leased out.

Possession of
culturable
waste land.

7. (1) Where the owner wishes to cultivate himself the culturable waste land, in respect of which a declaration has been made under section 3, after the expiry of the period for which the possession has vested in the Collector, he may, not later than three months before the expiry of the period, serve a notice on the Collector to that effect accompanied by security deposit of Rs.50 per acre and in such case such land shall be released by the Collector at the end of the above mentioned period and the possession thereof shall vest back in the owner.

(2) When possession of any such land has vested back in the owner under sub-section (1), the owner who, fails to cultivate such land and raise any food crop therein, his security deposit shall be forfeited and such land shall also be forfeited to the Provincial Government.

Bar to
jurisdiction
of Court.

8. No declaration made by the Collector in pursuance of the provision of this Ordinance and no order made by him for leasing out any culturable waste land shall be called in question in any Court.

Rule-making
power.

9. The Provincial Government may make rules for carrying out the purposes of this Ordinance.

East Pakistan Ordinance No. XVI of 1959.

THE EAST PAKISTAN TENANCY LAWS (AMENDMENT) ORDINANCE, 1959.

[21st February, 1959.]

An Ordinance further to amend the tenancy laws in force in East Pakistan.

WHEREAS it is expedient further to amend the tenancy laws in force in East Pakistan for the purpose and in the manner hereinafter appearing ;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the 7th day of October, 1958, and in exercise of all powers enabling him in that behalf, the Governor is pleased to make and promulgate the following Ordinance, namely :—

1. (1) This Ordinance may be called the East Pakistan Tenancy Laws (Amendment) Ordinance, 1959.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of East Pakistan.

(3) It shall come into force at once.

Ben. Act
VIII of
1885.
Assam
Act XI of
1936.

2. Notwithstanding anything contained in the Bengal Tenancy Act, 1885, and in the Sylhet Tenancy Act, 1936, when the Provincial Government lease out any land for any particular period, the provisions of the said Acts shall not apply to such lease and the rights and liabilities of such lessee shall be governed by the terms and conditions as may be set forth in the lease.

Temporary
leases of
lands.

East Pakistan Ordinance No. XVII of 1959.

**THE EAST PAKISTAN FIRE SERVICES ORDINANCE,
1959.**

[21st February, 1959.]

An Ordinance for the licensing of warehouses, for the maintenance of a fire-brigade and for certain other matters.

WHEREAS it is expedient to make provision for the licensing of warehouses, for the maintenance of a fire-brigade and for certain other matters ;

Now, THEREFORE, in pursuance of the Presidential Proclamation of the 7th day of October, 1958 and in exercise of all powers enabling him in that behalf, the Governor is pleased to make and promulgate the following Ordinance, namely :—

CHAPTER I.

Preliminary.

1. (1) This Ordinance may be called the East Pakistan Fire Services Ordinance, 1959.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of East Pakistan.

(3) It shall come into force in such areas¹, and on such dates¹, as the Provincial Government may, by notification, specify.

2. In this Ordinance, unless there is anything repugnant in the subject or context,—

Definitions.

(1) "cotton" means loose raw cotton ;

(2) "Director" means the Director of Fire Services, East Pakistan, appointed by the Provincial Government, having such technical qualifications as may be prescribed ;

(3) "District Magistrate" includes an Additional District Magistrate or a Deputy Commissioner ;

(4) "fire-brigade" means the fire-brigade maintained by the Provincial Government ;

(5) "fire-fighting appliances" means fire-engines, fire-escapes, accoutrements, equipments, tools, implements and things whatsoever used for fire-fighting and includes motor-cars, motor cycles, trailers and other means of transport ;

¹The Ordinance came into force in certain areas with effect from the 1st February, 1960 vide Notification No. 3874-L. S.-G., dated the 5th November, 1959, published in *Dacca Gazette*, dated 12th November, 1959, page 852.

(Sections 2—4.)

- (6) "jute" means any kind of raw jute, either loose or in drums, and loose jute-cuttings and rejections ;
- (7) "notification" means notification published in the *Official Gazette* ;
- (8) "person" includes a firm or company or association of individuals whether incorporated or not ;
- (9) "petroleum" shall have the same meaning as in the Petroleum Act, 1934 ;
- (10) "prescribed" means prescribed by rules made under this Ordinance ;
- (11) "warehouse" means any building or place used whether temporarily or permanently for the storing or pressing or keeping of jute, gunny bags, cotton, hemp, resin, shellac, varnish, bitumen, pitch, tar, tallow, celluloid, wood (excluding furniture kept in the building or place in ordinary use), charcoal, coal, bamboo, straw, hay, *ulugrass*, *golpata*, *hogla*, *durma*, raw rattan canes, cocoanut fibre, waste paper, packing boxes, inflammable chemicals or any other article which in the opinion of the Provincial Government is inflammable and is specified by the Provincial Government by notification in the *Official Gazette* for the purpose of this clause ; and
- (12) "workshop" means any building or place where the processing of any article is carried on for purposes of trade or business, if such processing of such article is declared by the Provincial Government by notification in the *Official Gazette* in this behalf to be attended with the risk of fire.

Act XXX
of 1934.

CHAPTER II

Fire-brigade.

Maintenance
of fire-bri-
gade by Pro-
vincial Go-
vernment.

3. The Provincial Government shall maintain a fire-brigade for the areas that are for the time being subject to the operation of this Ordinance.

Power of
Provincial
Government
to make or-
der, etc.

4. The Provincial Government may, from time to time, make such general or special orders as it may think fit—

- (i) for constituting or reconstituting a fire-brigade;
- (ii) for appointing or removing any member or officer of the fire-brigade;

of 1959.]

(Sections 4—6.)

- (iii) for furnishing the fire-brigade with such fire-fighting appliances as it deems proper;
- (iv) for building or providing stations, or hiring places, for accommodating the members of the fire-brigade and keeping its fire fighting appliances;
- (v) for giving rewards to persons who have given intimation of fires and to those who have rendered effective service to the fire-brigade on the occasion of fires;
- (vi) for the training, discipline and good conduct of the members of the fire-brigade;
- (vii) for the speedy attendance of members of the fire-brigade with necessary fire-fighting appliances on the occasion of any alarm of fire;
- (viii) for sending the members of the fire-brigade with necessary fire-fighting appliances, beyond the limits of any local area in which this Ordinance is in force, in order to extinguish fire in the neighbourhood of such limits on such terms and conditions as it deems proper;
- (ix) for the employment of the members of the fire-brigade with necessary fire-fighting appliances, in work other than extinguishing fire, on such terms and conditions as it deems proper;
- (x) for enforcing discipline and imposing punishment on any member of the fire-brigade who may infringe orders;
- (xi) for regulating and controlling the powers, duties and functions of the Director; and
- (xii) generally, for the maintenance of the fire-brigade in a 'due state of efficiency.

CHAPTER III.

Licensing of warehouses and workshops.

5. No building or place shall be used as a warehouse or as a workshop unless the owner or occupier thereof shall have previously obtained under this Ordinance, a licence for such use from the Director. Licence for warehouses.

6. No license to use any building or place as warehouse or as a workshop shall be granted unless such building or place conforms to such conditions as may be prescribed. Conditions to which a building or place is to conform before issue of license.

(Sections 7, 8.)

License of
building or
place already
used as ware-
house or
workshop.

7. The owner or occupier of any building or place which was being used as warehouse or workshop immediately before the date on which this Ordinance comes into force in the local area within which such building or place is situated and the owner or occupier of any building or place situated within any local area in which the Ordinance is in force, which was being used as a workshop immediately before the date of publication of the notification under clause (12) of section 2 by which such building or place comes under the definition of workshop in the said clause, shall, upon application made in writing to the Director within sixty days from the date on which this Ordinance comes into force in the said local area or from the date of publication of the said notification, as the case may be, be entitled to obtain a license to use such building or place as a warehouse or workshop under this Ordinance, subject to the payment of the annual fee referred to in section 11:

Provided that—

- (a) such application shall be accompanied by a plan (in duplicate) of such building or place in accordance with the provisions of sub-section (I) of section 8;
- (b) if such building or place does not conform to the conditions prescribed under section 6, the owner or occupier shall, within three months of obtaining the license for use thereof as warehouse or workshop under this Ordinance or within such further time not exceeding three months as may be granted by the Director under exceptional circumstances, effect necessary changes to conform to such condition and in the event of his failure to do so, the license shall be liable to be cancelled by the Director.

License for
new ware-
house.

8. (1) Save as provided in the last preceding section, every person proposing to use as a warehouse or as a workshop any building or place situated within any local area in which this Ordinance is in force, shall apply to the Director and shall submit with his application a plan (in duplicate) of such building or place prepared on a scale of eight feet to an inch, showing—

- (a) the boundaries of such building or place;
- (b) the position of the engines and furnaces used or proposed to be used in the warehouse or as a workshop; and
- (c) the space which has been reserved for the loading and unloading of carts and other vehicles or conveyance thereat.

of 1959.]

(Sections 9, 10.)

(2) Upon such application as aforesaid being made, the Director shall grant or refuse the license after making such enquiries as may be prescribed.

(3) Every license granted under section 7 or under subsection (2) of this section shall be required to be renewed annually; applications for renewal shall be made to the Director who shall grant or refuse renewal after making such enquiries as may be prescribed.

(4) When a license is granted under this section or on application under section 7 accompanied by a plan (in duplicate) of such building or place, a copy of the plan authenticated by the Director in the manner prescribed shall be returned to the licensee.

(5) Where a license or renewal of a license is refused, the Director shall record in writing the reasons for such refusal.

(6) An appeal shall lie to the Provincial Government from an order refusing a license or the renewal of a license:

Provided that notwithstanding anything contained in section 7, an applicant shall not be entitled, during the pendency of any appeal, to use any building or place as a warehouse in respect of which an appeal is pending.

9. Every application for a license under section 7 shall be disposed of within ninety days of the date of its receipt by the Director and every application under section 8 shall be disposed of within sixty days of the date of its receipt by the Director and if it is not disposed of within that period, the license shall be deemed to have been granted to such applicant.

Period for disposal of application for license.

10. Licenses for a warehouse or workshop shall be on the prescribed form and shall be subject to the following conditions, and such other conditions as may be prescribed in this behalf, namely:—

Conditions to which a license shall be subject.

- (a) that the warehouse or workshop shall at all times be open to inspection by such officer or officers, being member or members of a fire-brigade, as may be appointed by the Director;
- (b) that the warehouse or workshop shall conform to the conditions prescribed under section 6;
- (c) that no article referred to in clause (11) of section 2 shall be made, prepared, dried or treated in any manner on the top or roof of any building constituting or forming part of a warehouse or workshop; and

[E. P. Ord. No. XVII]

(Section 11.)

(d) that no part of a warehouse used for pressing or screwing jute or cotton shall be used as a residence and that no person shall be allowed to bring into such warehouse any match-boxes or match-sticks or any artificial light not duly and thoroughly protected or to smoke within such warehouse, while jute or cotton is stored therein.

Annual fee. 11. (1) The annual fee in respect of a license for the use of any building or place as a warehouse or as a workshop for the renewal of such a license shall be payable in advance.

(2) The annual fee shall be calculated at such rate not being less than three *per centum* nor more than fifteen *per centum* of the annual value of the building or place used as a warehouse or as a workshop as may be prescribed and different rates may be prescribed for different classes of warehouses according to the nature and quantity of the article stored, pressed or kept therein and for different classes of workshops according to the nature of processing carried on or the quantity or the nature of the articles processed therein:

Provided that the Provincial Government may prescribe by rules a maximum for the annual fee in respect of any class of warehouses or workshops.

(3) For purposes of sub-section (2), the annual value of a building or place used as a warehouse or workshop shall be deemed—

(a) if it is situated within a municipality, to be the annual value at which it is assessed for the payment of municipal taxes:

Provided that if such building or place forms part of any premises or holding assessed as a whole for the payment of municipal taxes, the annual value of such building or place shall be such as may be determined in this behalf by the Director having regard to the annual value as assessed for the payment of municipal taxes of the premises or holding of which such building or place forms part; and

(b) if it is situated outside a municipality, to be seven and half *per centum* of the current market value of the building (which expression shall in this section and elsewhere in this Ordinance

of 1959.]

(Sections 12—15.)

include any land appurtenant to the building) or place as determined by the Director, subject to revision by the Provincial Government, such revision being final.

12. (1) The Director may call for all necessary information relating to the annual valuation of any building or place used as warehouse or workshop from the Commissioners of a municipality in which this Ordinance is in force, for the purpose of calculation of fees in respect of licenses under section 11.

Power of Director to call for information relating to annual valuation.

(2) The Commissioners of any municipality in which this Ordinance is in force shall comply with such requisition and furnish such information to the Director within the prescribed period.

13. Whenever and so often as a change in the occupation of any warehouse or workshop occurs, the person entering into occupation of the same shall, within two weeks of his so entering into occupation, give notice in writing to the Director of such change of occupation, and shall thereupon pay a fee of ten rupees; and his name shall accordingly be substituted in the license in respect of the warehouse or workshop for the name of the last occupier.

Change in occupation of warehouse to be notified.

14. (1) Whenever the Director receives credible information that any condition, to which the license of any warehouse or workshop is subject, has been violated by the holder thereof, he shall communicate in writing the substance of such information to the District Magistrate or the Subdivisional Magistrate, and such Magistrate may issue a summons upon the holder of the license to show cause why the license should not be cancelled or suspended, and may also suspend such license pending the hearing of the case.

Issue of summons by District Magistrate or Subdivisional Magistrate upon holder of license.

(2) The District Magistrate or the Subdivisional Magistrate shall not make an order suspending such license unless he is satisfied that it is necessary to prevent or obviate immediate danger or injury of a serious kind.

(3) The summons issued under this section shall be served upon the said holder of the license named therein in the manner provided in the Code of Criminal Procedure, 1898, for the service of summons.

V of
8.

15. (1) The Magistrate, before whom the case instituted under the last preceding section is brought on for disposal, may, if he be satisfied after taking the evidence that there exists reasonable and proper grounds for cancelling or suspending the license, cancel such license or may suspend the

Magistrate may cancel or suspend license.

same for such time as he may think fit and may impose such condition as to the reversal of such order of cancellation or suspension as may be consistent with the provisions under this Ordinance for the grant of a license for a warehouse or workshop.

Ordinance not to apply where small quantities of inflammable articles are stored or where jute is stored.

(2) The Provincial Government may from time to time declare by notification what quantities of the articles referred to in clause (11) of section 2 shall be deemed to be small quantities within the meaning of this section.

Prior permission for fire-works, etc.

**Prior permis-
sion for
letting off
rockets, etc.**

17. No person shall let off rockets or send up fire-balloons on any occasion within any local area in which this Ordinance is in force, without prior permission.

Permitting authority.

18. The power of granting a permission under section 17 shall be exercised by the District Magistrate.

Power to withdraw or suspend permission.

19. A permission granted under section 17 may be withdrawn or suspended by the authority who granted it, at his discretion.

Taxation.

Rates to be levied.

20. In addition to the fees payable for licenses of warehouse and workshop under section 8, the Provincial Government may, after consulting the municipality or the Union Board concerned, levy on all holdings other than warehouses and workshops a general rate of one *per centum* on the annual valuation of such holding:

Provided that no such general rate shall be levied on holding, the annual value of which does not exceed Rs. 200.

of 1959.]

(Sections 21, 22.)

Explanation.—For the above purposes, “annual valuation” will mean—

Ben. Act
KV of
1932.
Assam
Act I of
1923.

- (i) in a municipal area, the same as assessed under the provisions of the Bengal Municipal Act, 1932 and the Assam Municipal Act, 1923, and
- (ii) in other areas, seven and one-half *per centum* of the cost of the particular holding as may be determined by the District Magistrate.

21. (1) The rates levied under section 20 shall be collected by the municipality or the Union Board concerned, along with municipal or Union rates, and the total collection thus made in any one year less such sum as may be prescribed for payment towards the cost of collection, shall be credited to the Provincial revenues in such manner as may be prescribed in this behalf.

Mode of
recovery of
rates levied
under
section 20.

Ben. Act
KV of
1932.
Assam
Act I of
1923.
Ben. Act
KV of
1919.

The provisions of the Bengal Municipal Act, 1932, the Assam Municipal Act, 1923, and the Bengal Village Self-Government Act, 1919, relating to recovery of rates levied under those Acts, respectively, so far as they are consistent with this Ordinance, shall apply to the recovery of the rates under this Ordinance.

(2) If it appears to the Provincial Government that the collection of rates by a municipality or Union Board under sub-section (1) is not satisfactory, it may, by notification, suspend the collection of rates by such municipality or Union Board.

(3) If the collection of rates by a municipality or Union Board is suspended under sub-section (2), the Provincial Government shall cause the rates to be collected by such authorities and in such manner as may be prescribed. The rates in arrears shall then be recoverable also as public demand under the provisions of the Bengal Public Demands Recovery Act, 1913.

Ben. Act
III of
1913.

22. (1) Where members of the fire-brigade are sent beyond the limit of any local area in which this Ordinance is in force, in order to extinguish fire in a warehouse or a workshop in the neighbourhood of such limits, the occupier of the warehouse or the workshop shall be liable to pay such fee as may be prescribed in this behalf.

Fees payable
for extin-
guishing
fire in areas
where the
Ordinance is
not in force.

(2) The fee referred to in this section shall be payable within three months of the service of a notice of demand by the Director on the occupier and if it is not paid within such period, it shall be recoverable as a public demand.

(Sections 23—28.)

CHAPTER VI

Penalties.

Penalty for
not taking
out a license
for a ware-
house.

23. Any person who without a license uses any building or place as a warehouse or as a workshop shall be punishable, on conviction before a Magistrate, with fine not exceeding one hundred rupees for each day during which he may so use or continue to use such warehouse or workshop.

Penalty for
using ware-
house after
refusal, etc.,
of license.

24. Whoever uses any warehouse or workshop in respect of which a license has been refused, or after the license in respect thereof shall have been cancelled, or during the time for which such license shall have been suspended, shall be liable, on conviction before a Magistrate, to a penalty not exceeding two hundred-fifty rupees, and to a further penalty not exceeding fifty rupees for every day during which any such warehouse may be used as aforesaid.

Penalty for
breach of
conditions.

25. Any holder of a license who breaks any of the conditions under which a license is held in respect of any warehouse or workshop shall be punished, on conviction before a Magistrate, with fine not exceeding one hundred rupees for any one such offence.

Penalty for
neglecting to
notify change
in occupation
of ware-
house.

26. If and so often as there be a change in the occupation of a warehouse or workshop, the person entering into occupation fails to give the notice and to pay the fee required by section 13, such person shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees for each day during which he may so use or continue to use such warehouse.

Penalty for
giving false
information
to Director
respecting
licence.

27. Any person who gives false information to the Director or to any person performing or exercising powers, duties and functions of the Director under this Ordinance, with the object of inducing him to take action under section 14, shall be punishable, on conviction before a Magistrate, with fine not exceeding one hundred rupees.

Penalty for
preparing,
etc., inflam-
mable sub-
stance on roof
of building.

28. Any owner or occupier of a warehouse who shall prepare or dry, or cause to be prepared or dried, any inflammable substance or thing, on the top or roof of any building constituting or forming part of such warehouse, shall be liable, on conviction before a Magistrate, to a penalty not exceeding one hundred rupees for any one such offence.

of 1959.]

(Sections 38—40.)

(2) The Director or the officer-in-charge of the brigade on the spot, may verbally nominate and depute one or more officers of the brigade to act at a distance; and such officer or officers shall have for the time being the like powers as the Director or such officer-in-charge himself possesses under this section.

(3) (i) While answering a fire call or emergent special services call, a fire engine or any fire-brigade vehicle shall get top priority in the road and shall be exempted from speed limit or general traffic regulations.

(ii) Use of audible warning signals, such as, gong bell or siren, which may be prohibited in ordinary vehicles under the Motor Vehicles Act, 1939 shall not apply to any vehicle on an occasion when it is being used for the fire-brigade.

IV of
1939.

38. Police officers of all grades shall aid the fire-brigade in the execution of its duties; such police officer or in the absence of any police officer, the senior Fire officer present may close any road or street in or near which a fire is burning and may, of their own motion, remove any person who interfere by their presence with the operations of the fire-brigade.

Police officer
to aid fire-
brigade.

39. No officer of the police and no person employed in the fire-brigade shall be held liable to damages on account of any act done by them in the *bona fide* belief that such act was required in the proper execution of their duties.

Non-liability
of police or
Fire Officer
to damages.

40. (1) In the case of any fire occurring within any local area in which this Ordinance is in force the senior-most officer in rank among the members of the fire-brigade in that local area or where members of the fire-brigade are sent beyond the limit of any local area in which this Ordinance is in force to extinguish fire in the neighbourhood of such limits, the seniormost officer in rank among the members so sent, shall ascertain the facts as to the origin and cause of such fire and shall make a report thereon to the Magistrate having jurisdiction in the place in which such fire shall have occurred; and the said Magistrate in any case where he may see fit, shall summon witnesses and take evidence in order to the further ascertainment of such facts.

Enquiry into
origin of fire
and report
to District
Magistrate.

(2) Copies of all reports and of all evidence recorded under this section shall be furnished on application to any Fire Assurance Company or other person interested, on payment of the fees payable for the copies of judicial proceedings.

(Section 41.)

Power of
entry.

41. (1) The Director, or any officer not below the rank of a station officer authorised by the Director in this behalf, may enter into or upon any building or place, with or without assistants, in order to make any inspection, test examination, survey, measurement, valuation, or to enquire for the purpose of carrying into effect the provisions of this Ordinance or of any rule made thereunder, or to obtain information for fire-fighting purposes with respect to the character of the buildings and other property within the local jurisdiction, the available water supplies and the means of access thereto and other material local circumstances, which in his opinion it is necessary for any of the purposes or in pursuance of any of the provisions of this Ordinance or any such rule to obtain:

Provided that—

- (a) no such entry shall be made between sun-set and sun-rise ;
- (b) no dwelling house and no public building or hut which is used as a dwelling place, shall be so entered, except with the consent of the occupier thereof, without giving the said occupier at least twenty-four hours' previous written notice of the intention to make such entry ;
- (c) notwithstanding any power to enter any building or place hereby conferred, sufficient notice of such entry shall in every instance be given to enable the inmates of any apartment appropriated to females to withdraw to some part of the premises where their privacy need not be disturbed ;
- (d) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the buildings or places entered into.

(2) The Director or any officer referred to in sub-section (1) shall not use any force for the purpose of effecting any entry under sub-section (1) unless—

- (i) such entry cannot otherwise be effected ; and
- (ii) there is reason to believe that an offence is being, or has been, committed against any provision of this Ordinance or any rule made thereunder.

(3) Except when it is in this Ordinance or in any rule made thereunder otherwise expressly provided, no claim shall lie against any person for compensation for any damage necessarily caused by any entry made under sub-section (1) or by the use of any necessary force under sub-section (2).

of 1959.]

(Sections 42—44.)

42. The District Magistrate and the Director may delegate any of his powers, duties and functions under this chapter to any officer or officers subordinate to him.

Delegation of power by Magistrate and Director.

43. (1) The Provincial Government may, by general or special order, published in the *Official Gazette*, order that such of the powers, duties and functions of the Director under this Ordinance, as the Provincial Government may specify in this behalf, shall be exercised and performed by the District Magistrate, the Commissioners of the municipality concerned through their Chairman and President of the Union Board, and the District Magistrate, the Commissioners of the Municipality and the President of the Union Board, as the case may be, shall comply with such order.

Power of Provincial Government to direct delegation of power.

(2) Where the Provincial Government makes an order under sub-section (1) requiring the District Magistrate, the Commissioners of a Municipality or the President of a Union Board to exercise or perform any powers, duties or functions of the Director under this Ordinance,—

- (a) the District Magistrate may delegate any of his powers, duties and functions under that order to any officer or officers subordinate to him ;
- (b) the Chairman of a Municipality or the President of a Union Board may authorise any officer of the municipality or Union Board, as the case may be, to exercise or perform any such powers, duties or functions, subject to his control and supervision.

(3) Where, in pursuance of an order under sub-section (1), the Commissioner of a Municipality or the President of a Union Board realise any fees under this Ordinance, such fees shall be paid to the Provincial Government at such time and after making such deduction for the cost of collection and other incidental expenses therefrom as may be prescribed.

44. If the Commissioners of a Municipality or the President of a Union Board fail to make any payment as required under sub-section (3) of section 43, the Provincial Government may attach the Union Board fund or any portion thereof or the Municipal Fund of the Commissioners of the Municipality or any portion thereof, as the case may be, to the extent of the amount realised in this behalf.

Power of Provincial Government in case of failure of Municipality or Union Board to pay annual fee.

Explanation.—The word “President” of a Union Board includes the Vice-President in the absence of the President and in the absence of both, any member of the Union Board who is acting as President for the time being.

(Sections 45—47.)

CHAPTER VIII

Miscellaneous.

Certain provision of Ben. Act XV of 1932 and Assam Act I of 1923 not to apply.

45. On the application of this Ordinance to any Municipality, section 370 of the Bengal Municipal Act, 1932, or 236 of the Assam Municipal Act, 1923, as the case may be, shall be deemed to be repealed in so far as this entitles the Commissioners of any Municipality to levy fees in respect of any premises or part thereof as a warehouse or workshop under either of the Acts.

Ben. Act XV of 1932. Assam Act I of 1923.

Annual statement

46. The Director shall submit to the Provincial Government an annual statement showing—

- (i) how the provisions of this Ordinance have been carried out ;
- (ii) the constitution, assets and the working of the fire-brigade ;
- (iii) the number of licences issued in respect of warehouses and workshops ; and
- (iv) such other matters as may be prescribed.

Power to make rules.

47. (1) The Provincial Government may, after previous publication, make rules for the purpose of carrying into effect the provisions of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the conditions referred to in section 6 to which a building or place shall conform before a license can be granted ;
- (b) the manner of authentication referred to in sub-section (4) of section 8 ;
- (c) the form of license for a warehouse or workshop and the conditions thereof, other than those expressly mentioned in section 10 ;
- (d) the maximum of the annual fee under the proviso to sub-section (2) of section 11 ;
- (e) the period within which the Commissioners of a Municipality shall furnish information to the Director referred to in sub-section (2) of section 12 ;
- (f) the determination of the cost of collection and the manner of crediting rates to the Provincial revenues under sub-section (1) of section 21 ;
- (g) the authorities by which and the manner in which collection of rates shall be made under sub-section (3) of section 21 ;

of 1959.]

(Sections 48—50.)

- (h) the determination of the fee referred to in sub-section (1) of section 22; and
- (i) the fixation of time for submitting annual statements under section 46 and the other matters to be furnished in such statement.

48. Any person acting under the provisions of this Ordinance shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code, 1860. Public servant.

XLV of
1860.

49. (1) No suit or legal proceedings shall lie against the Provincial Government in respect of anything which is, in good faith, done or intended to be done, under this Ordinance. Indemnity.

(2) No suit, prosecution or legal proceeding shall lie against any person or public servant in respect of anything which is, in good faith, done or intended to be done, under this Ordinance in the lawful discharge of his duty.

E. B. Act
XXXV
of 1951.

50. The East Bengal Fire Service (Special Powers) Act, 1951, is hereby repealed.

Repeal of
East Bengal
Act XXXV
of 1951.

East Pakistan Ordinance No. XVIII of 1959.

THE ELECTRICITY (EAST PAKISTAN AMENDMENT)
ORDINANCE, 1959.

[25th February, 1959.]

An Ordinance to amend the Electricity Act, 1910.

WHEREAS it is expedient to amend the Electricity Act,
IX of 1910 ;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the 7th day of October, 1958, and in exercise of all powers enabling him in that behalf, the Governor is pleased to make and promulgate the following Ordinance, namely:—

1. (1) This Ordinance may be called the Electricity (East Pakistan Amendment) Ordinance, 1959. Short title, extent and commencement.
- (2) It extends to the whole of East Pakistan.
- (3) It shall come into force at once.
2. The Electricity Act, 1910 (hereinafter referred to as the said Act) shall be amended as hereinafter provided. Amendment of Act IX of 1910.
3. Section 36A of the said Act shall be *omitted*. Omission of section 36A of Act IX of 1910.
4. In section 37 of the said Act,—
 - (i) in sub-section (1), for the words “The Central Electricity Board may make rules for all the Provinces or any part thereof”, the words “The Provincial Government may make rules for the whole of East Pakistan or any part thereof” shall be *substituted* ; Amendment of section 37 of Act IX of 1910.
 - (ii) sub-section (3) shall be *omitted*;
 - (iii) in sub-section (4), for the words “the Central Electricity Board”, the words “the Provincial Government” shall be *substituted*.
5. In section 38 of the said Act, in sub-section (3), for the words “Gazette of Pakistan”, the words “*Official Gazette*” shall be *substituted*. Amendment of section 38 of Act IX of 1910.

East Pakistan Ordinance No. XIX of 1959.

THE EAST PAKISTAN HATS AND BAZARS (ESTABLISHMENT AND ACQUISITION) ORDINANCE, 1959.

[2nd March, 1959.]

An Ordinance to control the establishment of hats and bazars and acquire certain hats and bazars already established.

E. B. Act
XXVIII
of 1951.

WHEREAS it is expedient to make provisions for controlling the establishment of *hats* and *bazars* in East Pakistan and for the acquisition of the *hats* and *bazars* established after the final publication of the Compensation Assessment-roll under section 42 of the East Bengal State Acquisition and Tenancy Act, 1950 ;

Now, THEREFORE, in pursuance of the Presidential Proclamation of the 7th day of October, 1958 and in exercise of all powers enabling him in that behalf, the Governor is pleased to make and promulgate the following Ordinance, namely:—

1. (1) This Ordinance may be called the East Pakistan *Hats and Bazars* (Establishment and Acquisition) Ordinance, 1959.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of East Pakistan.

(3) It shall come into force at once.

2. (1) No person shall establish any *hat* or *bazar* except after obtaining a licence for that purpose from the Collector in such form as may be prescribed by rules made under this Ordinance.

Licence to be
obtained for
establishment
of *hats* and
bazars.

(2) Any *hat* or *bazar* established in contravention of the provision of sub-section (1) including the land on which such *hat* or *bazar* is established and all interests therein shall be forfeited to the Provincial Government.

(3) An order passed by the Collector under sub-section (1) shall be final.

3. (1) Notwithstanding anything contained in any other law for the time being in force, the Provincial Government may, by notification in the *Official Gazette*, acquire with effect from such date as may be specified in that notification, any *hat* or *bazar* established in any area after the final publication of the Compensation Assessment-roll under section 42 of the East Bengal State Acquisition and Tenancy Act, 1950, in respect of that area, on payment of compensation at the rate provided for in clause (b) of sub-section (1) of section 39 of the said Act.

Power of the
Provincial
Government
to acquire
hats and
bazars and
determina-
tion of com-
pensation.

E. B. Act
XXVIII
of 1951.

(Sections 4, 5.)

(2) On and from the date specified in the notification under sub-section (1) in respect of any *hat* or *bazar*, such *hat* or *bazar* shall vest in the Provincial Government free from all encumbrances.

(3) The compensation payable under sub-section (1) shall be determined and paid to person or persons interested by the Collector in such manner as may be prescribed by rules made under this Ordinance.

(4) An appeal against the order of the Collector under sub-section (3), if preferred within 30 days of the date of the order, shall lie to the Commissioner of the Division.

(5) An order of the Commissioner passed under sub-section (4) and subject only to such order, an order of the Collector passed under sub-section (3) shall be final.

Interpreta-
tion.

4. All words and expressions used in this Ordinance and defined in the East Bengal State Acquisition and Tenancy Act, 1950, shall have meanings respectively assigned to them by that Act.

E. B. Act
XXVIII
of 1951.

Rule-making
power.

5. The Provincial Government may make rules for carrying out the purposes of this Ordinance.

East Pakistan Ordinance No. XXIV of 1959.

**THE EAST PAKISTAN GOVERNMENT FISHERIES
(PROTECTION) ORDINANCE, 1959.**

[24th March, 1959].

WHEREAS it is expedient to make provisions for preventing unauthorised fishing in fisheries belonging to, or under the management and control of, the Provincial Government;

Now, THEREFORE, in pursuance of the Presidential Proclamation of the 7th day of October, 1958, and in exercise of all powers enabling him in that behalf, the Governor of East Pakistan is pleased to make and promulgate the following Ordinance, namely:—

1. (1) This Ordinance may be called the East Pakistan Government Fisheries (Protection) Ordinance, 1959. Short title, extent and commencement.
(2) It extends to the whole of East Pakistan.
(3) It shall come into force at once.
2. In this Ordinance, unless there is anything repugnant in the subject or context,— Definitions.
(a) “*Khas* managed fishery” means a fishery declared by the Provincial Government under section 3 to be a *khas* managed fishery;
(b) “prescribed” means prescribed by rules made under this Ordinance.
3. The Provincial Government may, by notification in the *Official Gazette*, declare any fishery belonging to, or under the management and control of, the Provincial Government to be a *khas* managed fishery. Declaration of a fishery to be a *khas* managed fishery.
4. (1) On the declaration of a fishery to be a *khas* managed fishery under section 3, no person shall fish in such a fishery without a valid licence for fishing issued by such authority as may be prescribed. Bar to unauthorised fishing in *khas* managed fisheries.
(2) It shall be competent for the Provincial Government or any authority authorised by the Provincial Government to fix different rates of licence fees for fishing in a *khas* managed fishery with different varieties of fishing contrivances or by using different methods of fishing and to lay down the terms and conditions of any licence.
5. Every person fishing in any manner or carrying any fishing contrivance in a *khas* managed fishery shall carry with him a valid licence for fishing in such manner or with such contrivance and produce the same when required by such person or class of persons as may be prescribed. Carrying of valid licence of fishing and production of the same.

(Sections 6—10.)

Bar to un-
authorised
fishing in
other fishe-
ries.

6. No person shall fish or attempt to fish in any fishery, other than *khas* managed fishery, belonging to, or under the management and control of, the Provincial Government or enter into any such fishery for the purpose of fishing or causing fishing to be done, without the authority of the Provincial Government or of any lessee of the Provincial Government.

Authorisa-
tion by Pro-
vincial Go-
vernment to
question ille-
gal fishing.

7. The Provincial Government may, by notification in the *Official Gazette*, authorise any person or class of persons,—

- (a) to detain and search any boat found in any fishery belonging to, or under the management and control of, the Provincial Government and seize the boat with the fishing contrivance used or carried without valid licence or authority;
- (b) to search any place where fish caught or fishing contrivances used or carried without a valid licence or authority are reasonably suspected to be found and seize such fish or contrivances;
- (c) to seize any fish caught in contravention of the provisions of this Ordinance; and
- (d) to require any person found fishing or attempting to fish in any fishery belonging to, or under the management and control of, the Provincial Government to state truly his name, his father's name and address and to produce his authority for such fishing.

Exemption.

8. Nothing in this Ordinance shall apply to carrying of fishing contrivances in a boat or ship plying as a public carrier on a regulated route or to fishing with line and rod, basket or *kotch* for personal consumption.

Penal clauses.

9. (1) Contravention of any provision of this Ordinance or any rules made thereunder shall, on conviction by a Court of competent jurisdiction, be punishable with imprisonment which may extend to 2 years or with fine which may extend to Rs.5,000 or with both and any fish or fishing contrivance including any boat may be forfeited to the Provincial Government.

(2) An offence under this Ordinance shall be cognizable and bailable.

Rule-making
power.

10. The Provincial Government may make rules for carrying out the purposes of this Ordinance.

East Pakistan Ordinance No. XXXI of 1959.

**THE EAST PAKISTAN (PLANTATION EMPLOYEES)
PROVIDENT FUND ORDINANCE, 1959.**

[17th April, 1959.]

An Ordinance to provide for the institution of Provident Fund for employees working in Tea Estates in East Pakistan.

WHEREAS it is expedient to make provisions for Provident Fund facilities to persons employed in Tea Estates in East Pakistan for the purpose and in the manner hereinafter appearing ;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the 7th day of October, 1958, the Governor is pleased, in exercise of all powers enabling him in that behalf, to make and promulgate the following Ordinance, namely :—

1. (1) This Ordinance may be called the East Pakistan (Plantation Employees) Provident Fund Ordinance, 1959. Short title, extent and commencement.

(2) It extends to the whole of East Pakistan.

(3) It shall come into force on such dates as the Provincial Government may, by notification in the *Official Gazette*, appoint.

2. In this Ordinance, unless there is anything repugnant in the subject or context,— Definition.

(a) "Board" means the Board of Trustees constituted under section 12 of this Ordinance;

(b) "contribution" means a contribution payable under section 5 of this Ordinance;

(c) "controller" means Controller of the East Pakistan (Plantation Employees) Provident Fund appointed under section 18 of this Ordinance;

(d) "employee" means any person who is employed for wages in any kind of work, manual or otherwise, for more than a year in connection with the work of tea plantation or a tea factory and includes any person employed by or through a contractor in or in connection with the work of the plantation, but does not include apprentices in any plantation;

(e) "employer" in relation to a Tea Estate means the owner or occupier of a plantation or a factory, including the agent of such owner or occupier, the

legal representative of a deceased owner or occupier and where a person has been named as a manager, the person so named;

- (f) "factory" means any premises, including the precincts thereof, in any part of which a manufacturing process is being carried on with the aid of power;
- (g) "Fund" means the Provident Fund established under section 4 of this Ordinance;
- (h) "manufacture" means making, producing, altering, ornamenting, finishing, assembling, passing or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery, or disposal;
- (i) "Plantation" means an estate which is used or intended to be used for the cultivation or manufacture of tea or for any purpose connected therewith, and also includes a tea factory;
- (j) "prescribed" means prescribed by rules made under this Ordinance;
- (k) "Tribunal" means a Tribunal as defined in section 2 of the Industrial Disputes Act, 1947; Act XIV
of 1947.
- (l) "trustee" means the Chairman and the members of the Board of Trustees constituted under section 12 of this Ordinance ; and
- (m) "wages" means basic wages earned by an employee in lieu of services rendered by him to his employer in accordance with the terms of contract of employment, but does not include dearness allowances.

Applica-
bility.

3. This Ordinance shall apply to all plantations, in which ten or more persons are or were employed on any day of the preceding twelve months :

Provided that this Ordinance shall not apply to any plantation, established whether before or after the commencement of this Ordinance unless three years have elapsed from its establishment.

Explanation.—For the removal of doubts, it is hereby declared that an establishment shall not be deemed to be newly set up merely by reason of a change in its location.

Plantation
Employees'
Provident
Fund.

4. There shall be established for the purposes of this Ordinance, a "Plantation Employees Provident Fund for East Pakistan", to be vested in and administered by a Board called the "Board of Trustees" which shall be constituted as hereinafter provided.

of 1959.]

(Sections 5—8.)

5. (1) The contribution which shall be paid by the employer to the Fund shall be six and a quarter *per cent.* of the wages for the time being payable to each of the employee and the employees' contribution shall be equal to the contribution payable by the employer in respect of him : Contributions.

Provided that where the amount of any contribution payable under this Ordinance involves a fraction of rupee, such fraction shall be rounded off to the nearest rupee or half a rupee, as the case may be :

Provided further that if in any case, the contribution made at the time of coming into force of this Ordinance to an existing Provident Fund is higher than that provided in this section then that rate of contribution shall continue to be made as if this Ordinance had not been promulgated.

(2) The total accumulations in the Fund shall be held in deposit in the prescribed manner.

(3) The amount of accumulations in the Fund shall be invested in such manner as may be prescribed.

6. With the coming into force of this Ordinance, the accumulations in any existing Provident Fund standing to the credit of the employees who become members of the Fund established under this Ordinance shall, subject to the provisions made in the second proviso to sub-section (1) of section 5, be transferred to the Fund under this Ordinance, and shall be credited to the accounts of the employees entitled thereto in the Fund. Existing Provident Fund.

7. Where an employer makes default in the payment of any contribution to the Fund or in the transfer of accumulations required to be transferred under section 6 or in the payment of any charges payable under any other provision of this Ordinance or rules made thereunder, the Board in addition to the amounts of arrears so due, may recover from the employer such damages, not exceeding twenty-five per cent. of the amount of such arrear. Recovery of damages.

8. (1) The amount standing to the credit of any employee on account of this Provident Fund accumulation shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any Court in respect of any debt or liability incurred by the employee nor any receiver appointed under the Provincial Insolvency Act, 1920 shall be entitled to, or have any claim on, any such amount. Provident Fund not liable to attachment.

(2) Any amount standing to the credit of any employee in his Provident Fund Account at the time of his nominee under this Ordinance shall, subject to any deduction authorized under the laws in force, vest in the nominee and shall be free from any debt or other liability incurred by the deceased or incurred by the nominee before the death of the employee.

Priority of
payment of
contribution
over other
debts.

9. The amount due in respect of any contribution under this Ordinance shall, where the liability has accrued before the employer is adjudicated insolvent, or in the case of a company ordered to be wound up, before the date of such order, be deemed to be included among the debts which under section 61 of the Provincial Insolvency Act, 1920 or under section 230 of the Companies Act, 1913 are to be paid in priority to all other debts in the distribution of the property of the insolvent or the assets of the Company being wound up, as the case may be.

V of
1920.
VII of
1913.

Employer
not to reduce
wages or
other ameni-
ties.

10. No employer shall, by reason only of his liability for payment of any contribution to the fund or any charges under this Ordinance or rules made thereunder, reduce, whether directly or indirectly, the wages of any employee or other benefits to which the employee is entitled under the terms of his employment, expressed or implied.

Power to
remove
difficulties.

11. (1) If any difficulty arises in giving effect to the provisions of this Ordinance, in particular, if any doubt arises as to—

- (i) whether 10 or more persons are employed in a factory, or
- (ii) whether 3 years have elapsed from the establishment of factory, or
- (iii) whether the total quantum of benefits to which an employee is entitled has been reduced by the employer,

the Provincial Government may give such direction not inconsistent with the provisions of this Ordinance as appears to it to be necessary or expedient for the removal of any doubt or difficulty. The Provincial Government may, before giving any direction for removal of any difficulty, refer any matter to the Tribunal for its decision.

(2) The decision of the Tribunal in terms of subsection (1), shall be deemed to be an order for the purposes of this Ordinance.

of 1959.]

(Sections 12—14.)

12. (1) The Provincial Government may, by notification in the *Official Gazette*, constitute a Board to be called "the Board of Trustees for the Plantation Employees Provident Fund" which shall consist of the following persons, namely:—

Constitution
of the Board
of Trustees.

- (a) a Chairman, to be appointed by the Provincial Government by notification in the *Official Gazette* ;
- (b) two representatives of employers and two representatives of employees in the plantations to which the Fund applies, to be nominated by the Provincial Government in consultation with such organization of employers and employees as may be recognised by the Provincial Government for the purpose ;
- (c) two independent persons not connected with the plantation, to be nominated by the Provincial Government.

(2) The Chairman and each member shall receive such salary and allowances as may be determined by the Provincial Government and shall perform such duties as are assigned to them under this Ordinance or by any rules made under it.

(3) The Board shall be a body corporate and have perpetual succession and a common seal and shall by the said name sue and be sued.

13. (1) The term of office of the Chairman and the members of the Board shall be three years commencing from the date on which their appointment or nomination, as the case may be, is notified in the *Official Gazette* :

Terms of
Office.

Provided that any such trustee shall, notwithstanding the expiry of the said period of three years, continue to hold office until the name of his successor is notified in the *Official Gazette*.

(2) Any trustee nominated to fill a casual vacancy shall hold office only for the unexpired portion of the term of office of his predecessor,

(3) Any trustee whose term of office expires shall be eligible for re-appointment or renominated at the end of his term of office.

14. Any trustee may at any time resign his office by letter in writing addressed to the Provincial Government and his office shall fall vacant from the date on which his resignation is accepted by the Provincial Government,

Resignation.

Cessation of trusteeship. **15.** If a member of the Board fails to attend three consecutive meetings of the Board without obtaining leave of absence from the Chairman of the Board, he shall cease to be a trustee :

Provided if any trustee remains out of Pakistan for a period of six months or more shall be deemed to have resigned from the Board.

Disqualification for trusteeship. **16.** A person shall be disqualified for being appointed or nominated, as the case may be, as or for being a trustee—

- (i) if he is declared to be a person of unsound mind by a competent Court ; or
- (ii) if he is an undischarged insolvent ; or
- (iii) if before or after the commencement of this Ordinance he has been convicted of an offence involving moral turpitude.

Removal from trusteeship. **17.** The Provincial Government may remove from Office any trustee if in its opinion such trustee has ceased to represent the interest which he purports to represent.

Controller of Provident Fund, his powers and duties. **18.** (1) The Provincial Government shall appoint a Controller who shall be the Chief Executive Officer of the Board, shall be subject to its general control and superintendence, and shall act as the Secretary to the Board.

(2) The Controller while attending the meetings of the Board may take part in its deliberations but shall not be entitled to vote.

(3) The Controller shall, in consultation with the Chairman, convene meetings of the Board and keep records of its minutes and shall take necessary steps for carrying out the decisions of the Board.

(4) The Controller may require an employer to furnish such accounts relevant to the Fund as he may consider necessary.

(5) The Controller or any officer authorised by him may, at any reasonable time and after giving notice of his intention to do so, enter any plantation or any premises connected therewith and require any one found in charge thereof to produce before him for examination any accounts, books, registers and other documents relating to the employment of persons or the payment of wages in such plantations.

of 1959.]

(Sections 19—21.)

(6) The Controller or any officer authorised by him may examine with respect to any matter relevant to any of the purposes aforesaid, the employer, his agent or servant or any other persons found in charge of the plantation or any premises connected therewith or whom the Controller or his authorized officer has reasonable cause to believe to be, or to have been, an employee in such a plantation.

(7) The Controller may exercise such other powers as may be prescribed.

XLV of
1860.

(8) The Controller or every other officer shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code, 1860.

19. (1) The Board shall levy an administrative charge of such percentage of the total employers' and workers' contributions as may be fixed by the Provincial Government from time to time in consultation with the Board and the employers shall, within fifteen days of the close of every month pay to the Fund by separate Bank Draft or Cheque on account of the administrative charge so fixed. Cost of Administration.

(2) When the payment of the administrative charge is made by a cheque on an outstation bank, the collection charge, at such rate as may be determined by the Board, shall be included in the amount for which the cheque is drawn in respect of the administrative charge.

20. (1) No Court inferior to that of a Magistrate of the First Class shall try any offence under this Ordinance or any rule made thereunder. Cognizance of offence.

(2) No Court shall take cognizance of any offence under this Ordinance or any rule or order thereunder except upon complaint made by the Controller or any person authorised by him in writing in this behalf.

21. Whoever contravenes any of the provisions of this Ordinance or any rule made thereunder shall, on conviction by a competent Court, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees or with both, and may, in addition, be punishable with a further fine which may extend to one hundred rupees for every day of the period during which the contravention continues. Penalty.

Indemnity.

22. No suit or other legal proceeding shall lie against the Controller or any other officer authorised by him in respect of anything which is in good faith done or intended to be done under this Ordinance or any rules made thereunder.

Submission of yearly reports and returns.

23. (1) The Board shall submit to the Provincial Government, as soon as possible after the end of every financial year, a report on the conduct of their affairs for that year.

(2) The Provincial Government may require the Board to furnish—

- (i) any return, statement, estimate, statistics or other information regarding any matter under the control of the Board, or
- (ii) a report on any such matter, or
- (iii) a copy of any document in the charge of the Board, and the Board shall comply with every such requisition.

Maintenance of accounts.

24. The Board shall maintain complete and accurate books of accounts in such form as may be prescribed by the Provincial Government.

Rule-making power.

25. (1) The Provincial Government may make rules for carrying out the purposes of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the employees or class of employees who shall join the Fund ;
- (b) the time and manner in which contributions shall be made to the Fund by the employers and by, or on behalf of employees, the contributions which an employee may make and the manner in which such contribution may be recovered ;
- (c) powers and duties of the Board for the administration of the Fund, the procedure relating to meetings of the Board, the manner in which differences of opinion amongst the trustees on any matter concerning the Fund may be resolved and similar other matters ;
- (d) the manner in which account shall be kept, the preparation of the budget, the audit of accounts and submission of reports to the Provincial Government ;

of 1959.]

(Section 25.)

- (e) the conditions under which withdrawals from the Fund may be made and any deductions or forfeiture may be made and the maximum amount of such deduction or forfeiture ;
- (f) the forms in which an employee shall furnish particulars about himself and his family whenever required ;
- (g) the nomination of persons to receive the amount standing to the credit of a member after his death and the cancellation or variation of such nomination ;
- (h) the registers and records to be maintained with respect to employees and returns to be furnished by the employers ;
- (i) the form of design of any contribution card, token or disc and for the issue, custody and replacement thereof ;
- (j) the contraventions or defaults which shall be punishable under this Ordinance ;
- (k) the manner in which accumulation in any existing Provident Fund shall be transferred to the Fund and the mode of valuation of any assets which may be transferred by the employers in this behalf ;
- (l) the conditions under which a member may be permitted to pay premia on life insurance from the Fund ; and
- (m) any other matter which may be necessary or proper for the purpose of implementing this Ordinance.

(3) No rules under this section shall be made until a draft of the same has been first published in the *Official Gazette* and a period of 30 days has been allowed to interested persons to submit objections and the same have been taken into consideration by the Provincial Government.

East Pakistan Ordinance No. XXXIII of 1959.

**THE INLAND MECHANICALLY PROPELLED VESSELS
(EAST PAKISTAN AMENDMENT) ORDINANCE,
1959.**

[27th April, 1959.]

*An Ordinance further to amend the Inland Mechanically
Propelled Vessels Act, 1917.*

I of 1917. WHEREAS it is expedient further to amend the Inland Mechanically Propelled Vessels Act, 1917, in the manner and for the purpose hereinafter appearing;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the 7th day of October, 1958, and in exercise of all powers enabling him in that behalf, the Governor is pleased to make and promulgate the following Ordinance, namely:—

1. (1) This Ordinance may be called the "Inland Mechanically Propelled Vessels (East Pakistan Amendment) Ordinance, 1959.

Short title and commencement.

(2) It shall come into force at once.

I of 1917. 2. The Inland Mechanically Propelled Vessels Act, 1917, (hereinafter referred to as the said Act) shall be amended in the manner hereinafter provided.

Amendment of the Inland Mechanically Propelled Vessels Act, 1917.

3. Section 54AA of the said Act shall be re-numbered as sub-section (1) of that section and thereafter the following new sub-sections shall be added, namely:—

Amendment of section 54AA of Act I of 1917.

"(2) Before publication of such time-tables, fare-tables, or tariffs of freight, the owner of a mechanically propelled vessel shall submit them to the Provincial Government for approval.

(3) The Provincial Government may, by notification in the *Official Gazette*, appoint any person or authority to exercise the powers under this section".

4. After section 54B of the said Act, the following new section shall be inserted, namely:—

Insertion of new section 54C to Act I of 1917.

Allocation of routes to inland mechanically propelled vessels.

54C. (1) The Provincial Government may allocate routes to inland mechanically propelled vessels and for the effective achievement of this purpose may grant route permits in such manner and under such conditions as may be prescribed.

(2) The Provincial Government may, by notification in the *Official Gazette*, appoint any person or authority to exercise the powers under this section."

East Pakistan Ordinance No. XXXIV of 1959.

THE EAST PAKISTAN PRIVATE FORESTS ORDINANCE, 1959.

[11th May, 1959.]

An Ordinance to provide for the conservation of private forests and for the afforestation in certain cases of waste lands in East Pakistan.

WHEREAS it is expedient to provide for conservation of forests and for the afforestation of waste lands in East Pakistan where such forests or lands are not the property of the Government or where the Government have no proprietary right over such forests or lands ;

AND in pursuance of the Presidential Proclamation of the 7th day of October, 1958, and having received the previous instructions of the President, the Governor is pleased, in exercise of all powers enabling him in that behalf, to make and promulgate the following Ordinance :—

CHAPTER I

Preliminary.

1. (1) This Ordinance may be called the East Pakistan Private Forests Ordinance, 1959.

Short title
extent and
commence-
ment.

(2) It extends to the whole of East Pakistan.

(3) This section shall come into force at once and the remaining provisions of this Ordinance, in whole or in part, shall come into force in such areas¹ and on such dates¹ as the Provincial Government may, by notification, specify and for this purpose different dates may be specified for different provisions of this Ordinance and for different areas.

2. In this Ordinance, unless there is anything repugnant in the subject or context,—

Definitions.

(1) "Appellate Committee" means a committee the procedure of which shall be as prescribed, appointed by the Provincial Government in respect of a notified area to hear appeal under this Ordinance consisting of three members of whom the Chairman shall be a Revenue Officer not below the rank of a Collector, one member shall be a member of the East Pakistan Forest Service not below the rank of a Deputy Conservator of Forests and the other member shall be an

¹Sections 2 to 63 of the Ordinance came into force in the districts of Dacca, Mymensingh, Sylhet, Chittagong, Rajshahi, Kushtia, Jessore, Faridpur, Rangpur and Dinajpur with effect from the 11th May, 1959, vide Notification No. 1657-For., dated the 3rd August, 1959, published in the *Dacca Gazette*, dated 13th August, 1959, Part I, page 620.

owner of a private forest who shall be selected in the prescribed manner from amongst the owners of private forests in such notified area ;

- (2) "cattle" includes elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids ;
- (3) "conservation" used in reference to a forest, includes such measures as are necessary in the opinion of the Regional Forest Officer for the prevention or remedying of the erosion of the soil or any flood or landslide ;
- (4) "Controlled forest" means a private forest, not being vested forest in respect of which sections 2 to 63 of this Ordinance in whole or in part, have come into force ;
- (5) "forest" includes any land recorded as forest in a record-of-rights prepared under Chapter IX of the Sylhet Tenancy Act, 1936 or under Chapter X of the Bengal Tenancy Act, 1885 or under Chapter IV of the East Bengal State Acquisition and Tenancy Act, 1950 or such other land containing tree growth as may by notification be declared as forest by the Provincial Government ; Assam Act XI of 1936, VIII of 1885. E. B. Act XXVIII of 1951.
- (6) "forest-offence" means an offence punishable under this Ordinance or under any rule made thereunder ;
- (7) "Forest Officer" means any person whom the Provincial Government or any officer empowered by the Provincial Government in this behalf, may appoint to carry out all or any of the purposes of this Ordinance or to do anything required by this Ordinance or any rule made thereunder to be done by a Forest Officer ;
- (8) "forest-produce" includes—
 - (a) the following whether found in, or brought from a forest or not, that is to say,—
 - (i) timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, mahua flowers, mahua seeds, kuth and myrabolans, and
 - (ii) wild animals and skins, tusks, horns, bones, silks, cocoons, honey and wax, and all other parts or produce of animals, and

of 1959.]

(Section 2.)

- (b) the following when found in, or brought from a forest, that is to say,—
- (i) trees and leaves, flowers and fruits, and all other parts, or produce not hereinbefore mentioned, of trees,
 - (ii) plants not being trees (including grass, creepers, reeds and moss), and all parts or produce of such plants, and
 - (iii) peat, surface soil, rock and mineral (including lime-stone, latrite, mineral oils, and all products of mines or quarries);
- (9) "Forest Settlement Officer" means an officer who shall ordinarily be a Revenue Officer, appointed by the Provincial Government to perform the functions of a Forest Settlement Officer under this Ordinance, and includes a Board, the procedure of which shall be as prescribed, appointed by the Provincial Government to perform such functions, consisting of not more than three officers of whom at least two shall be Revenue Officers;
- (10) "notification" means a notification published in the *Official Gazette*;
- (11) "notified area" means an area specified in a notification issued under sub-section (1) of section 3;
- (12) "owner" includes any mortgagee in possession, lessee, common manager, receiver appointed by a competent Court and any person holding any property in trust and also includes a Court of Wards in respect of property under the superintendence or charge of such Court;
- (13) "prescribed" means prescribed by rules made under this Ordinance;
- (14) "private forest" means a forest which is not the property of the Provincial Government or over which the Provincial Government has no proprietary right;
- (15) "Regional Forest Officer" means a Forest Officer appointed as such by a notification for a notified area;
- (16) "river" includes any stream, canal, creek or other channel, natural or artificial;

- (17) "timber" includes trees when they have fallen or have been felled, and all wood whether cut up or fashioned or hallowed out for any purpose or not;
- (18) "tree" includes palms, bamboos, stumps, brush-wood and canes;
- (19) "vested forest" means a forest of which the control has been vested in a Regional Forest Officer by a notification under sub-section (2) of section 6 or under section 7 or under section 11 and includes any forest deemed to be or managed as, a vested forest under this Ordinance;
- (20) "waste-land" means any waste-land which is not the property of the Provincial Government or over which the Provincial Government has no proprietary right;
- (21) "working plan" means a written scheme for the management and treatment of a forest; and
- (22) "year" means a year beginning on the 1st day of April.

CHAPTER II.

Conservation of Private Forests and Afforestation of Waste Lands.

Preparation of, and appeal and revision in respect of, working plans for private forest.

3. (1) (a) The Provincial Government may, by notification, direct that every owner of a private forest which is not a vested forest, but which is situated within such area as may be specified in the notification, shall prepare in the prescribed manner and submit within the period mentioned in the notification to the Regional Forest Officer a working plan for the conservation of such private forest.

(b) If any person fails to submit the statement mentioned in clause (a) of sub-section (1) within the specified time, he shall be punishable with fine which may extend to five hundred rupees:

Provided that no prosecution shall be instituted under this sub-section unless the Regional Forest Officer has certified in the prescribed manner a notice on such owner specifying his failure to carry out the above provision within 30 days from the date of service of such notice and unless such owner has failed to comply with such notice.

of 1959.]

(Section 3.)

(2) On the expiry of the period mentioned in the notification under sub-section (1), the Regional Forest Officer shall, after considering each working plan submitted to him under that sub-section, and after consultation in the manner prescribed with the Conservator of Forests of the forest circle within which such forest is situated, by an order in writing, accept the working plan or modify it in such manner as he may consider necessary or substitute another working plan for it.

(3) If any owner of such private forest does not submit a working plan within the period specified in the notification issued under sub-section (1), the Regional Forest Officer may, after consultation in the manner prescribed with the Conservator of Forests of the forest circle within which such forest is situated, prepare a working plan in respect of such forest.

(4) When the Regional Forest Officer by an order in writing modifies any working plan under sub-section (2) or substitutes another working plan under that sub-section for the working plan submitted under sub-section (1), he shall cause a copy of such order to be served in the prescribed manner upon the owner of such private forest to which such working plan relates and such owner may, within sixty days of the date of service of such order, appeal against such order to the Appellate Committee and the Appellate Committee may thereupon, after giving such owner an opportunity of being heard, by an order in writing, either accept the working plan with or without modifications or reject it and the decision of the Appellate Committee on every such appeal shall, subject to the provisions of sub-section (5), be final.

(5) The Board of Revenue may, on application by an owner of a private forest for revision of an order of the Appellate Committee passed in appeal under sub-section (4), and if such application is made within thirty days from the date of the order, call for the record of the appeal in which the order was passed and on receipt of such record, after giving such owner an opportunity of being heard, may, if it does not see fit to reject the application, direct the Appellate Committee by an order in writing to make such modifications in the working plan accepted by the said Committee under sub-section (4) as may be specified in such order in writing.

(6) The Board of Revenue shall, as soon as may be after an application for revision is disposed of under sub-section (5), communicate the order passed by it on

such application to the Appellate Committee, and on receipt of such order the Appellate Committee shall, where the Board of Revenue has directed any modification to be made in such working plan, modify it accordingly.

Approved
working
plans

4. (1) When the Appellate Committee accepts any working plan with or without modification under sub-section (4) of section 3, modifies any working plan under sub-section (6) of the said section, or the Regional Forest Officer accepts, modifies or substitutes any working plan under the said section or prepares any working plan under the said section, such Committee or officer shall, by an order in writing, approve such working plan or the working plan as so modified by the Committee or such officer, as the case may be, and every working plan so approved shall be deemed for the purposes of this Ordinance to be an approved working plan:

Provided that the Regional Forest Officer shall not so approve any working plan that he has modified or substituted by an order under sub-section (2) of section 3, if—

- (a) an appeal against the order has been made to the Appellate Committee; or
- (b) where no such appeal has been made, the time within which such appeal may be made has not expired:

Provided further that the Appellate Committee shall not so approve any working plan accepted by it with or without modification by an order under sub-section (4) of section 3 if,—

- (a) where an application for revision of the order has been made to the Board of Revenue, the order of the Board of Revenue on such application has not been received by such Committee; or
- (b) where no such application for revision has been made, the time within which such application may be made has not expired.

(2) A copy of every approved working plan shall be sent in the prescribed manner by the Regional Forest Officer to the owner of the private forest to which it relates and the owner shall thereupon manage such forest in accordance with such plan and shall carry out all the terms and conditions thereof.

(3) At any time after five years from the date of approval of a working plan under sub-section (1), or with the previous sanction of the Provincial Government at any

of 1959.]

(Sections 5, 6.)

time within the said period of five years a Regional Forest Officer may, after consultation in the manner prescribed with the Conservator of Forests of the forest circle within which the forest to which such working plan relates is situated, by an order in writing, modify the approved working plan in such manner as he considers necessary and the provisions of sub-sections (4), (5) and (6) of section 3 and sub-sections (1) and (2) of this section shall apply to every plan so modified :

Provided that nothing in this section shall prevent the owner after the expiry of the said period of five years from applying in writing to the Regional Forest Officer for the modification of the working plan in such manner as may be specified in the application and if the Regional Forest Officer, after giving the owner an opportunity of being heard, does not see fit after such consultation as aforesaid so to modify the working plan, he shall record an order to that effect and the owner may, within thirty days from the date of such order, appeal against such order to the Appellate Committee and an application for revision shall also lie to the Board of Revenue from any order passed by the Appellate Committee on such appeal if presented within thirty days from the date of such order and the decision of the Appellate Committee on such appeal shall, subject to such revision by the Board of Revenue, be final.

5. After the publication of a notification under sub-section (1) of section 3, no owner of a private forest in the notified area shall enter into any new lease or extend the term of any existing lease in respect of such forest until the working plan in respect of such forest has been approved under sub-section (1) of section 4 except with the previous sanction of the Provincial Government and, after such working plan has been so approved, except in accordance with the terms and conditions of such plan and any lease entered into or any extension of the term of any lease granted in contravention of the provisions of this section shall, notwithstanding anything contained in any other law for the time being in force, be void and have no effect.

Prohibition of leases of terms of existing leases of private forests after issue of notification under section 3(1).

6. (1) If after an approved working plan in respect of any private forest has been sent under sub-section (2) of section 4 to the owner of such forest such owner fails or neglects to carry out any of the terms and conditions of such plan, he shall be punishable with fine which may extend to five hundred rupees :

Penalty for the violation of working plan.

Provided that no prosecution shall be instituted under this sub-section unless the Regional Forest Officer has served in the prescribed manner a notice on such owner specifying the terms and conditions of the working plan which such owner has failed or neglected to carry out

and requiring such owner to take such steps for carrying them out as are specified in the notice within thirty days from the date of service of such notice and unless such owner has failed to comply with such notice.

(2) If the owner of a private forest is convicted a second or subsequent time under sub-section (1) for the failure or neglect to carry out any of the terms and conditions of the working plan in respect of such forest the Provincial Government may, by a notification, direct that the control of such forest shall be vested in such Regional Forest Officer for such period as may be specified in such notification:

Provided that no such notification shall be issued until such owner has been called upon by notice in writing by the Regional Forest Officer within sixty days of such conviction to show cause before the Appellate Committee within such time as may be specified in the notice as to why such notification should not be issued and until the Appellate Committee, after considering the cause, if any, shown by him and any evidence which he may produce in support thereof, has recommended to the Provincial Government that such notification should be issued.

(3) Nothing in sub-section (1) shall render any owner of any private forest liable to conviction for any deviation from any approved working plan if such deviation has been previously sanctioned by the Regional Forest Officer on application made by such owner in that behalf to such officer or by the Appellate Committee on an appeal from an order of the Regional Forest Officer refusing to sanction such deviation presented by the owner to such Committee within thirty days from the date of such order.

Vesting of
forest in a
Regional
Forest
Officer.

7. Notwithstanding anything contained in sections 3 and 4 or in sub-section (2) of section 6, if the Provincial Government is satisfied that the conservation of any private forest in a notified area should not be left to the owner thereof, the Provincial Government may, by a notification specifying the reasons for so doing, direct that the control of such forest shall be vested in such Regional Forest Officer for such period as may be specified in the notification:

Provided that no such notification shall be issued until—

(a) the Regional Forest Officer has, by notice in writing, called upon the owner of such forest to show cause before the Appellate Committee within such

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(Section 8.)

period as may be specified in such notice why the control of such forest should not be so vested, and

- (b) the Appellate Committee after considering the cause, if any, shown by the owner and any evidence which the owner may produce in support of the same has recommended that such notification should be issued.

8. (1) Subject to rules made under this Ordinance loans may be granted on the recommendation of the Appellate Committee by such officer as may be empowered in this behalf by the Provincial Government to any owner of a controlled forest or a vested forest who, in the opinion of the Appellate Committee, is likely to suffer unduly owing to any temporary reduction of his income resulting from any action taken under section 4 or sub-section (2) of section 6 or section 7 or to any owner of a controlled forest to enable such owner to pay any compensation payable by him under sub-section (6) of section 10 or sub-section (2) of section 35. Forest loans.

(2) An application for such a loan shall be made in the prescribed manner to the Appellate Committee and shall state the following particulars, namely :—

- (a) the amount of the loan required,
- (b) the reasons for which it is necessary, and
- (c) the period for which it is required.

(3) After considering in the prescribed manner the application made under sub-section (2) and any evidence that may be produced in support thereof, the Appellate Committee shall state in writing its opinion as to whether or not a loan should be given, and, if it recommends the grant of a loan, shall forward the application to the officer empowered under sub-section (1) with its opinion, stating the reasons for such recommendation and specifying the following particulars, namely :—

- (a) the amount of the loan that should be granted and the rate of the interest that should be charged,
- (b) the instalments in which the loan should be advanced, and
- (c) the period after which and the instalments in which the loan should be repaid.

(4) Subject to rules made under this Ordinance granted under sub-section (1), all interests, if any, chargeable thereon and costs, if any, incurred in granting such loans shall, when they become due, be recoverable by the Collector as if they were arrears of land revenue due in

respect of the controlled forest or the vested forest of which the borrower was the owner at the time the loan was granted :

Provided that no proceeding in respect of any such forest under this sub-section shall affect any interest in that forest which existed before the date of the order granting the loan other than the interest of the borrower and of mortgagees of, or persons having charges on, the interest of the borrower.

Amulga-
mation of
two or more
vested
forests
under one
working
plan.

9. (1) If, after consultation in the prescribed manner with the Conservator of Forests of the forest circle within which the forests are situated, a Regional Forest Officer is of the opinion that it is impossible otherwise to secure the conservation of two or more forests, belonging to different owners, of which the control has been vested in him by a notification under sub-section (2) of section 6 or under section 7, he may record an order that such forest shall be managed under one working plan as if they belonged to one owner, and shall cause a copy of such order to be served in the prescribed manner on the owner of each such forest.

(2) The Regional Forest Officer may at any time, after consultation in the manner referred to in sub-section (1), by order in writing, rescind or modify an order passed by him under that sub-section and a copy of every order passed under this sub-section shall be served in the prescribed manner on the owner of each such forest.

(3) Any owner or other person interested in any such forests may, within thirty days from the date on which the copy of any order passed under sub-section (1) or sub-section (2) is served on him, appeal against such order to the Appellate Committee and the decision of the Appellate Committee on such appeal shall, subject to the provisions of sub-section (4), be final.

(4) The Board of Revenue may, on application made within thirty days from the date of any order of the Appellate Committee passed in appeal under sub-section (3), revise such order.

Afforesta-
tion of land
adjoining
a forest.

10. (1) The Provincial Government may, if it is satisfied on application made by the owner of a controlled forest, or by the Regional Forest Officer in whom the control of a private forest is vested under this Ordinance that any land adjoining such forest has not been cultivated during the three years immediately preceding the year in which such application is made and that such land is suitable for afforestation, by notification, announce its intention to declare such land to be liable to be made over to the owner of such controlled forest or vested forest, as the case may be.

of 1959.]

(Section 10)

(2) Every notification issued under sub-section (1) shall specify a period within which objections to the proposed declaration may be submitted by any person interested in such land to the Appellate Committee and a copy of every such notification shall be served in the prescribed manner on the person entitled to cultivate such land.

(3) After the expiry of the period so specified in a notification issued under sub-section (1), the Appellate Committee shall hear the objections, if any, submitted by the person entitled to cultivate such land or any other person interested in such land and any evidence which any such person may produce in support of the same, and forward the objections so submitted and its opinion thereon to the Provincial Government.

(4) If, after considering the objections and the opinion of the Appellate Committee forwarded under sub-section (3), the Provincial Government is of opinion that such land should be declared to be liable to be made over to the owner of the controlled or vested forest referred to in sub-section (1), the Provincial Government shall issue a notification—

- (a) declaring such land to be liable to be made over to the owner of such forest to be specified in the notification,
- (b) specifying as nearly as possible the situation and limits of such lands, and
- (c) appointing a Forest Settlement Officer to determine, subject to any rules made under this Ordinance, by an order in writing,—
 - (i) what rights in or over such land shall be extinguished, and
 - (ii) what rent, if any, shall be payable by the owner of such forest to any landlord of such land.

(5) When a notification has been issued under sub-section (4), the amount of the compensation payable under sub-section (6) to every person whose rights as specified by the Forest Settlement Officer under sub-clause (i) of clause (c) of sub-section (4), are to be extinguished shall be determined, subject to any rules made under this Ordinance, in the manner and in accordance with the principles hereinafter set out, that is to say,—

- (i) when the amount of compensation can be fixed by the Forest Settlement Officer appointed under clause (c) of sub-section (4) by agreement, it shall be paid in accordance with such agreement ;

(Section 10)

- (ii) where no such agreement can be reached, the Provincial Government shall appoint as arbitrator, a person who has exercised the powers of a District Judge in East Pakistan or who possesses such qualifications as are normally required for appointment to the post of District Judge in East Pakistan ;
- (iii) at the commencement of the proceedings before the arbitrator the owner of the forests or the Regional Forest Officer by whom the compensation is payable, and the person to be compensated shall state what in their respective opinions is a fair amount of compensation ;
- (iv) the arbitrator in making his award shall have regard to the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894, ^{I of 1894.} so far as the same can be made applicable ;
- (v) an appeal shall lie to the High Court against an award of an arbitrator except in cases where the amount thereof does not exceed an amount prescribed in this behalf ;
- (vi) save as provided in this sub-section and in any rules made under this Ordinance, nothing in any law for the time being in force shall apply to arbitrations under this sub-section.

(6) The amount of compensation determined under sub-section (5) shall be paid in the prescribed manner in the case where the notification under sub-section (1) was issued on the application of the owner of a controlled forest, by such owner, and in the case where such notification was issued on the application of a Regional Forest Officer, by such officer out of the profits of the vested forest adjoining such land, to the person entitled to such compensation and, on payment of such compensation the land shall be made over by the Forest Settlement Officer appointed under clause (c) of sub-section (4), to the owner of the controlled or vested forest specified in the notification issued under that sub-section and shall thereupon vest in such owner and all rights in or over such land specified by the said officer under sub-clause (i) of the said clause shall with effect from the date on which such land is so made over, be extinguished.

(7) When any land is made over under sub-section (6) to the owner of a forest, it shall, with effect from the date on which it is so made over, be deemed to be a private forest.

of 1959.]

(Section 11.)

(8) When any such land is made over under sub-section (6) to the owner of a vested forest which adjoins such land, the control of such land shall be vested in the Regional Forest Officer in whom the control of such forest is for the time being vested and the land shall, for the purposes of this Ordinance, be deemed to be a vested forest.

(9) When any such land is made over under sub-section (6) to the owner of a controlled forest which adjoins such land, the Regional Forest Officer may, after consultation in the prescribed manner with the Conservator of Forests of the forest circle within which such controlled forest is situated, by an order in writing, a copy of which shall be served on such owner in the prescribed manner, either direct that the approved working plan in respect of such controlled forest shall be deemed to be the working plan approved for such land under sub-section (1) of section 4 or require such owner to prepare in the prescribed manner and submit within the period to be mentioned in such order to such officer a working plan in respect of such land.

(10) Where the owner of a controlled forest is required under sub-section (9) to prepare and submit a working plan in respect of the land made over to him under sub-section (6), the provisions of sections 3 and 4 shall apply to such working plan as if such owner has been required to prepare such working plan under sub-section (1) of section 3.

11. (1) If it appears from the report of a Regional Forest Officer that any waste land which is lying uncultivated for not less than three years is suitable for afforestation and that the owner of such land is unwilling or unable to cultivate it by growing therein agricultural crops, or to use it for the purposes of horticulture to the satisfaction of such officer or to afforest it, the Provincial Government may, by a notification, direct that the control of such land shall be vested in a Regional Forest Officer to be specified in the notification for the purpose of afforestation for such period as may be stated in the notification :

Afforestation
of other land.

Provided that the Provincial Government shall not issue any notification under this sub-section without considering whether or not such land can more advantageously be used for the purposes of agriculture or horticulture than for the purposes of afforestation :

Provided further that no such notification shall be published until a notice has been issued by such Regional Forest Officer calling upon the owner of such land and

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(Section 12.)

any other person interested therein to show cause before the Appellate Committee within such period as may be specified in the notice why the notification should not be published and until the cause, if any, shown and any evidence that may have been produced in support of the same before the Appellate Committee and the opinion of the Appellate Committee thereon have been considered by the Provincial Government.

(2) Any land in respect of which a notification has been published under sub-section (1), shall be deemed to be a vested forest for the purpose of the Ordinance.

(3) When all expenses incurred by the Provincial Government for the afforestation of any such land have been recouped, the profits resulting from such afforestation shall, during the period the control of such land remains vested in a Regional Forest Officer, be divided in equal shares between the Provincial Government and the owner of the land.

Apportionment of rents of forests held under a lease jointly with other lands and the division of the tenure or holding comprising a forest.

12. (1) Notwithstanding anything contained in any other law for the time being in force, where a private forest or any waste land is, at the date of publication of a notification vesting the control thereof in a Regional Forest Officer under sub-section (2) of section 6 or under section 7 or under section 11, as the case may be,—

(a) held under a lease granted by the owner of such forest or land before the date of publication of such notification and such lease comprises not only the areas included in such forest or, land but also other areas, or

(b) held by the owner of such forest as part of a tenure or holding jointly with other lands.

the Collector of the district may, on application made in this behalf by such Regional Forest Officer.—

(i) in the case referred to in clause (a), by an order in writing, apportion, subject to rules made under this Ordinance, the rent payable under the lease between the areas included within the vested forests and other areas comprised within the lease on the basis of their respective assets, and

(ii) in the case referred to in clause (b), by an order in writing, direct the division of such tenure or holding in such manner that a separate tenure or holding is formed with the land included within the vested forest and also direct such distribution

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(Sections 13, 14.)

of the rent payable in respect of such tenure or holding between the two separate tenures or holdings so formed as he deems fair and equitable :

Provided that no order shall be passed under this sub-section without giving, in the case of an order passed under clause (i) the lessor and the lessee of such forest or land and in the case of an order passed under clause (ii), the owner of such forest or land and the landlord or landlords, or their common agent, if any, of the tenure or holding, a reasonable opportunity of being heard.

(2) An appeal shall lie from every order passed under sub-section (1) to the Commissioner of the Division if it is presented within thirty days from the date of such order and the decision of the Commissioner on such appeal shall be final and shall not be questioned in any Court.

Explanation.—In this section, “lease”, “lessor” and “lessee” have the same meanings as in the Transfer of Property Act, 1882, and “tenure” and “holding” have the same meanings as in the Bengal Tenancy Act, 1885.

IV of
1882,
VIII of
1885.

13. Where a private forest or waste land of which the control has been vested in a Regional Forest Officer by a notification under sub-section (2) of section 6 or under section 7 or under section 11 is, at the date of publication of such notification, held either exclusively or jointly with other property under a lease granted by the owner of such forest or land before such date, the rent payable under the lease or under an order of apportionment made under clause (i) of sub-section (1) of section 12 in respect of such forest or land during the period such forest or land remains so vested in the Regional Forest Officer shall, subject to the prior payment of the land-revenue, if any, due to the Government thereupon be a first charge upon the leasehold interest in such forest created by such lease.

Rent to be a charge on the leasehold interest in a vested forest.

14. The Provincial Government may, if it thinks it expedient, direct the Collector to partition off that part of an estate which comprises a vested forest into a separate estate; and the demand in respect of land-revenue and cess for which the original estate was liable shall on such partition be assessed upon and divided between the two separate estate so formed respectively in such manner as the Provincial Government may direct.

Power to order a vested forest to be formed into a separate estate.

(Sections 15, 16.)

Power to exempt an estate of which a vested forest forms part from sale for arrears of revenue.

15. The Provincial Government may, if it so considers expedient, by a notification, exempt any estate, and subject to the provisions of section 14 of the Bengal Land-revenue Sales Act, 1859, every share or part of an estate for which a separate account has been opened under section 10, or section 11 of the said Act, or under section 70 of the Land Registration Act, 1876, of which a vested forest forms part, from sale for arrears of Government revenue accruing during the period the control of such forest remains vested in a Regional Forest Officer under sub-section (2) of section 6 or under section 7 or under section 11 or during such part of such period as may be specified in such notification:

XI of
1859.

Ben. Act
VII of
1876.

Provided that where any such estate, share or part is so exempted, all such arrears of revenue shall be the first charge upon the sale-proceeds of such estate, share or part which may be sold otherwise than for such arrears of revenue.

Determination of cost of management of vested forest and distribution of net profit.

16. (1) The cost of any extra staff required for the management of a vested forest in each year shall be determined in the prescribed manner by the Regional Forest Officer and shall be recovered by him in that year, or in subsequent years, from the sale of the forest-produce of such forest.

(2) The cost of the operations of any Forest Settlement Officer and such part of the cost of a Regional Forest Officer and or his staff as is proportionate to the work done by them in connection with the management of a vested forest shall be included in the cost of management.

(3) Any amount due in respect of a loan made under section 8 to the owner of a vested forest shall be included in the cost of management of such forest.

(4) Any amount paid as compensation by the Regional Forest Officer under sub-section (6) of section 10 out of the profits of a vested forest or paid as compensation by the Regional Forest Officer under sub-section (2) of section 25, and to be recouped under that sub-section from the profits of a vested forest, shall be included in the cost of management of such forest.

(5) Until otherwise determined by a competent Court, the respective shares of the owners of a vested forest shall be determined by a Forest Settlement Officer in the prescribed manner and thereafter the net profits in respect of such forest, which shall be calculated in the prescribed manner, shall be distributed among the various owners thereof in proportion to their respective shares as so determined.

of 1959.]

(Sections 17, 18.)

(6) In each year the Regional Forest Officer shall record in a statement the cost of management with which each vested forest shall be charged and any amount which shall be paid in respect of the net profits calculated under sub-section (5) and shall cause a copy of such statement to be served in the prescribed manner on the owner of such forest.

17. (1) The Provincial Government may impose in the prescribed manner on an acreage basis a cess on all private forests within a notified area with effect from such date, not being before the expiry of ten years from the date of publication of a notification under section 3, as the said Government may appoint. Imposition of cess.

(2) Such cess shall be so calculated as to yield a sum not greater than that which is sufficient to meet the cost of the Regional Forest Officer and his staff, including any expenses incurred in connection with their work to be determined in the prescribed manner.

(3) If the Regional Forest Officer or his staff does any work in connection with a Government forest, a proportionate deduction shall be made from the cost of such Regional Forest Officer and of his staff before the cess is calculated under sub-section (2). "

(4) Every cess imposed under sub-section (1) shall be recoverable as a public demand under the Bengal Public Demands Recovery Act, 1913.

Ben. Act
III of
1913.

(5) The Provincial Government may, by general or special order, exempt any private forest in a notified area from the payment of any cess imposed under sub-section (1) or of any portion of any such cess for such period as may be specified in such order.

18. (1) If the owner of a vested forest satisfies the Appellate Committee— Release of vested forest to the owner.

(a) at any time after the expiry of fifteen years from the date of the notification by which the control of such forest has been vested in a Regional Forest Officer, that—

(i) the control of such forest may be restored without undue risk of detriment to its conservation, and

(ii) the cost of its management as determined under the provisions of sub-section (1) of section 16 has been recovered in full, or

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(Section 18.)

- (b) at any time after the expiry of thirty years from the date of such notification that the cost of management of such forest as determined under the provisions of that sub-section has been recovered,

the Appellate Committee shall by order direct that with effect from a date, to be specified in such order, the control of such forest shall cease to be vested in the Regional Forest Officer :

Provided that no such order shall be made in the case of any forest, whether any working plan in respect of such forest has been previously approved under section 4 or not, until—

- (a) the Appellate Committee has by an order called upon the owner of such forest to prepare in the prescribed manner and to submit within such period as may be specified in such order to the Regional Forest Officer a working plan in respect of such forest, and
- (b) a working plan has been approved in respect of such forest in accordance with the provisions referred to in sub-section (2) :

Provided further that no such order shall be passed regarding a forest in respect of which there subsists an order passed under sub-section (1) of section 9, unless the owners of all the forests, in respect of which the order under the said sub-section was passed, have satisfied the Appellate Committee that there will be no undue risk of detriment to the conservation of any of such forest if the control of the said forests ceases to be vested in the Regional Forest Officer.

- (2) When the owner of a forest has been required under the first proviso to sub-section (1) to prepare and submit a working plan in respect of such forest, the provisions of sections 3 and 4 shall apply to such working plan as if such owner has been required to prepare such working plan under sub-section (1) of section 3.
- (3) The fact that the control of any forest has ceased to be vested in a Regional Forest Officer shall not operate to revive any right which may have been extinguished or modified by a proclamation under section 28.

of 1959.]

(Sections 19—22.)

CHAPTER III

Rights in Forests.

19. When a notification has been published in respect of any forest under sub-section (2) of section 6 or under section 7 or under section 11, the control of such forest shall be vested in the Regional Forest Officer who shall forthwith proceed to demarcate it.

Control and demarcation of vested forest.

20. (1) A Forest Settlement Officer shall be appointed by the Provincial Government in respect of every forest of which the control is vested in a Regional Forest Officer by a notification under sub-section (2) of section 6 or under section 7 or under section 11, and may be appointed in respect of any controlled forest on the application made in this behalf to the Provincial Government by its owner.

Appointment of Forest Settlement Officer.

(2) Such appointment shall be made by a notification specifying in such notification as nearly as may be possible, the situation and limits of such forest.

21. After the issue of a notification under section 20, no rights shall be acquired in or over the land comprised in such notification, except by succession or under grant or contract in writing made or entered into, with the previous sanction of the Provincial Government, by or on behalf of the owner or some person in whom such right was vested when the notification was issued; and no fresh clearings for cultivation or for any other purpose, and cutting, conversion or removal of timber or the collection, manufacture or removal of other forest-produce, shall be made in such land except in accordance with such rules, if any, as may be made by the Provincial Government in this behalf.

Bar of accrual of rights.

22. (1) The Forest Settlement Officer shall publish in the neighbourhood of the forest in respect of which he has been appointed, a proclamation in Bengali and, if any other language has been prescribed in this behalf for the local area in which such forest is situated, also in such other language—

Proclamation by Forest Settlement Officer.

- (a) specifying, as nearly as possible, the situation and limits of such forest;
- (b) explaining the measure proposed for, and the consequences which will ensue on, the conservation of such forest; and

(Sections 23—25.)

- (c) requiring every person who claims any right, other than a right of ownership, over such forest or over any forest-produce from such forest, to give to such Forest Settlement Officer, within a period of not less than three months to be stated in the proclamation, particulars, either in writing or by word of mouth, of such right and the amount and nature of the compensation, if any, claimed in respect thereof.

(2) The Forest Settlement Officer shall take down in writing all statements made by word of mouth under clause (c) of sub-section (1).

Inquiry by
Forest Settle-
ment Officer.

23. (1) The Forest Settlement Officer shall at some convenient place enquire into the existence of any rights which are claimed under clause (c) of sub-section (1) of section 22 or which may be ascertained by him from any other source.

(2) The Forest Settlement Officer shall give a hearing to the Regional Forest Officer or an Officer authorised by such Regional Forest Officer in writing in this behalf, to satisfy himself as to the necessity of modifying or extinguishing any right in the interests of the conservation of the forest.

Powers of
Forest Settle-
ment Officer.

24. For the purpose of such inquiry, the Forest Settlement Officer may exercise the following powers, that is to say:—

- (a) power to enter, by himself or by any officer authorised by him for the purpose, upon any land, and to survey, demarcate and make a map of the same ; and
(b) the powers of a Civil Court in the trial of suits.

Specification
and modifi-
cation of
rights.

25. (1) After completion of the enquiry under section 23, the Forest Settlement Officer shall, by an order in writing,—

- (a) record the nature of the rights existing at the time of the notification under section 20, and
(b) direct the modification or extinction of any such right, other than a right of ownership, in the interests of the conservation of the forest.

(2) When the Forest Settlement Officer directs under clause (b) of sub-section (1) the modification or extinction of any right, he shall, unless, the person whose rights are affected has come to an agreement as to the amount of compensation payable to him, determine what compensation shall be awarded to such person, and the amount

of 1959.]

(Sections 26—28.)

of any compensation payable under this sub-section to any such person shall be paid in the prescribed manner, in the case where the forest to which such right relates is a controlled forest, by the owner of such forest, and in the case where such forest is a vested forest, by the Regional Forest Officer in whom the control of such forest is vested under this Ordinance and every payment so made by the Regional Forest Officer shall be recouped from the profits of the vested forest to which such right relates as part of the cost of management of such forest.

26. (1) An appeal may be presented against any order made under section 25 within ninety days from the date of such order to the Commissioner of the Division by an owner of a forest or by a Regional Forest Officer or by a person who has given particulars of his claims under sub-section (1) of section 22. Appeals.

(2) Every such appeal shall be made by a petition in writing and shall be heard in accordance with the procedure for the time being applicable to the hearing of appeals in the matters relating to land revenue.

(3) The order of the Commissioner on such appeal shall, subject to the provisions of sub-section (4), be final.

(4) An application for revision shall lie to the Board of Revenue from an order of the Commissioner passed in appeal under this section if it is presented within thirty days from the date of such order.

27. The Provincial Government, or any person who has made a claim under this Ordinance may appoint any person to appear, plead and act on its or his behalf before the Forest Settlement Officer, or any appellate or revisional authority in the course of any inquiry, appeal or revision under this Ordinance or before any arbitrator appointed to determine any compensation payable under sub-section (5) of section 10. Pleders.

28. (1) When the time within which appeals against orders under section 25 may be made has expired and when any such appeal has been made under section 26, the time within which applications for revision of any order passed in such appeal may be made has also expired and all applications for revision under sub-section (4) of section 26 have been disposed of, the Forest Settlement Officer shall issue another proclamation specifying the rights which may be exercised in respect of the forest Extinction of rights.

(Section 29.)

regarding which any such order under section 25 has been made and also specifying the date with effect from which all rights in respect of such forest which are not specified in such proclamation shall be extinguished.

(2) A translation of such proclamation in Bengali and, if any other language has been prescribed in this behalf for the local area in which such forest is situated, also in such other language shall be published in the neighbourhood of such forest before the date so specified in such proclamation.

(3) With effect from the date so specified in such proclamation all rights in respect of such forest not specified in such proclamation shall be extinguished.

CHAPTER IV.

*Penalties and Procedure.***Penalties for
breach of
rules.**

29. (1) Any person who—

- (a) fells, girdles, lops, taps, or burns any tree in a controlled or vested forest or strips off the bark or leaves from, or otherwise damages, any such tree,
- (b) Quarries any stone, or burns any lime or charcoal, or collects, subjects to any manufacturing process, or removes any forest-produce from a controlled or vested forest,
- (c) breaks up or clears for cultivation or any other purpose any land in a controlled or vested forest,
- (d) sets fire to a controlled or vested forest, or kindles a fire without taking all reasonable precautions to prevent its spreading to any portion of such forest, or
- (e) permits cattle to damage any tree in a controlled or vested forest,

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(2) Any person contravening any rule made under this Ordinance for the contravention of which no special penalty is provided, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

of 1959.]

(Section 30.)

30. (1) If it is proved to the satisfaction of the District Magistrate that in any vested forest—

Imposition
of collective
fine on the
inhabitants
in certain
cases.

- (a) any cattle have been permitted to trespass,
- (b) any trees have been felled, girdled, lopped, tapped, burnt, or otherwise damaged,
- (c) any other forest-produce has been burnt or removed, or
- (d) any land has been broken up for any purpose, otherwise than in the exercise of any right in or over such forest, with intent to cause detriment to the conservation of such forest and if the District Magistrate is satisfied after enquiry that the inhabitants of any local area are concerned in the commission of any such offences or are in any way assisting persons in committing such offences, the District Magistrate may, by order in writing in which shall be specified the reasons for making such order, impose on the inhabitants of such area a collective fine which may extend to five hundred rupees or three times the value estimated by him of any forest-produce damaged, whichever is greater, and may, after such further inquiry, as he deems necessary, apportion such fine amongst such inhabitants and such apportionment shall be made according to the respective means of such inhabitants.

(2) Every order imposing a collective fine under sub-section (1) shall be forthwith published in the local area in such manner as the District Magistrate considers best calculated to bring the order to the notice of the inhabitants of the area concerned.

(3) The District Magistrate may exempt any person or section of such inhabitants from liability to pay any portion of such fine.

(4) The portion of such fine payable by any person may be recovered from him as a fine or as a public demand under the Bengal Public Demands Recovery Act, 1913.

(5) Every apportionment of collective fine made under sub-section (1) shall be subject to revision by the Commissioner of the Division on application made in that behalf to him by any person affected by such apportionment within thirty days from the date on which such apportionment is made and the decision of the Commissioner thereon shall be final.

(Sections 31—34.)

Nothing in
sub-section
(1) of sec-
tion 29 to
prohibit
acts done
in certain
cases.

31. No act shall be an offence for the purposes of sub-section (1) of section 29 if it is done—

- (a) in the exercise of any right in or over such forest, or
- (b) in respect of a vested forest, with the permission in writing of a Forest Officer, or
- (c) in respect of a controlled forest, with the permission in writing of the owner thereof or of his authorised agent, or
- (d) in accordance with rules made under this Ordinance.

Seizure of
property lia-
ble to confis-
cation.

32. (1) When there is reason to believe that a forest offence has been committed in respect of any forest produce, such produce together with all tools, boats, motor vehicles, carts or cattle used in committing any such offence, may be seized by any Forest Officer or Police Officer.

(2) Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made:

Provided that, when the offender is unknown, it shall be sufficient if the officer makes as soon as may be a report of the circumstances to his official superior.

Power to
release pro-
perty seized
under section
32.

33. Any Forest Officer of a rank not inferior to that of a Ranger, or any Police Officer of a rank not inferior to that of a Sub-Inspector, who, or whose subordinate has seized any tools, boats, motor vehicles, carts or cattle under section 32, may release the same on the execution by the owner thereof of a bond for the production of the property so released, if and when so required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.

Information
of the Magis-
trate and
procedure
thereupon.

34. The Regional Forest Officer may cause information to be given to a Magistrate regarding any forest offence which he has reason to believe to have been committed in respect of any forest-produce; and upon receipt of any such information, the Magistrate shall, with all convenient despatch, take such measures as may be necessary for the arrest and trial of the offender and the disposal of the property according to law.

of 1959.]

(Sections 35, 36.)

35. (1) If a Regional Forest Officer has not caused information to be given to a Magistrate under section 34 in respect of any forest-produce seized under sub-section (1) of section 32, he shall, if there is any doubt as to the person who is entitled to such produce, cause a notice to be published in such manner as may be prescribed containing a description of such produce and requiring any person who may claim the same to present a written statement of his claim to him within such period as may be specified in such notice.

Notice to claimants of seized forest-produce.

(2) If only one such statement of claim is presented in respect of any such forest-produce, the Regional Forest Officer shall, after making such inquiry as he thinks fit and recording his reasons in writing, either reject the claim or deliver the produce to the claimant.

(3) If more than one such statement of claim is presented, the Regional Forest Officer may, after making such inquiry as he thinks fit and after recording his reasons in writing, either deliver the forest-produce to such of the persons as he considers to be entitled thereto or refer the claimants to the Civil Court and retain such produce pending receipt of an order from the Civil Court for its disposal.

(4) Any person whose claim has been rejected under this section may, within three months from the date of rejection of such claim, institute a suit to recover possession of the forest-produce claimed by him, but no person shall be entitled to recover any compensation or costs against the Provincial Government, or against any Forest Officer, on account of rejection of such claim or on account of the detention or removal of any forest-produce, or the delivery thereof to any other person under this section.

(5) No such forest-produce shall be subject to any process of any Civil, Criminal or Revenue Court until it has been delivered, or a suit has been instituted as provided in this section.

36. If no statement of claim is presented in respect of any such forest-produce after a notice has been published under sub-section (1) of section 35, or if a person whose claim has been rejected under that section omits to institute a suit under sub-section (4) thereof, the ownership of such forest-produce shall vest in the Provincial Government free from all encumbrances, or, when such forest-produce has been delivered to any

Disposal of unclaimed forest-produce.

(Sections 37—41.)

person under sub-section (3) of that section, in such person free from all encumbrances not created by such person.

Disposal of seized property after information has been given under section 34.

37. (1) Any forest-produce in respect of which a forest offence has been committed and information has been given to a Magistrate under section 34 shall, on the conclusion of the trial for such offence, be made over to the owner of the forest from which it was derived or to any other person whom the Magistrate deems to be entitled to the same:

Provided that, if it is not known from which forest such produce was derived, such forest-produce and all tools, boats, motor vehicles, carts and cattle used in committing such forest-offence shall be liable to confiscation.

(2) Such confiscation may be in addition to any other punishment which may be awarded under this Ordinance for such offence.

Disposal of confiscated property on conclusion of trial.

38. When the trial of any forest-offence is concluded, any forest-produce in respect of which such offence has been committed shall, if it has been confiscated, be taken charge of by a Forest Officer.

Procedure when offender cannot be found.

39. When the offender cannot be found, the Magistrate may, if he finds that an offence has been committed, order the property in respect of which the offence has been committed to be confiscated and taken charge of by the Regional Forest Officer, or to be made over to the person whom the Magistrate deems to be entitled to the same:

Provided that no such order shall be made until the expiry of one month from the date of seizing such property, or without hearing the person, if any, claiming any right thereto, and the evidence, if any, which he may produce in support of his claim.

Procedure as to perishable property seized under section 32.

40. The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section 32 and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it had not been sold.

Appeal from orders under section 37 or section 39.

41. The officer who made the seizure under section 32 or any of his official superiors or any person claiming to be interested in the property so seized, may, within one month from the date of any order passed by the Magistrate under section 37 or section 39, appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final.

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(Sections 42—46.)

42. When an order for the confiscation of any property has been passed under section 37 or section 39, as the case may be, and the period limited by section 41 for an appeal from such order has expired and no such appeal has been preferred, or when, on such an appeal being preferred, the Appellate Court confirms such order in respect of the whole or a portion of such portion thereof as the case may be, shall vest in the Provincial Government free from all encumbrances.

Property when to vest in Government.

43. Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the Provincial Government from directing at any time the immediate release of any property seized under section 32.

Saving of power to release property seized.

44. Any Forest Officer or Police Officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Ordinance shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Punishment for wrongful seizure.

45. Whoever, with intent to cause damage or injury to the public or to any person or to cause wrongful gain as defined in the Pakistan Penal Code—

Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary marks.

(a) knowingly counterfeits upon any timber or standing tree in a controlled or vested forest a mark used by Forest Officers to indicate that such timber or tree is the property of the Government or of some person, or that it may lawfully be cut or removed by some person, or

(b) alters, defaces or obliterates any such marks placed on a tree or on timber in a controlled or vested forest by or under the authority of a Forest Officer, or

(c) alters, moves, destroys or defaces any boundary mark of any forest or wasteland to which the provisions of the Ordinance apply or are applied, shall be punishable with imprisonment for a term which may extend to two years or with fine, or with both.

46. (1) Any Forest or Police Officer may, without orders from a Magistrate and without a warrant, arrest any person against whom a reasonable suspicion exists of his having been concerned in any forest-offence punishable with imprisonment for one month or upwards under this Ordinance.

Power to arrest without warrant.

(Sections 47—51.)

(2) Every officer making an arrest under this section shall, without unnecessary delay and subject to the provisions of this Ordinance as to release on bond, take or send the person arrested before the Magistrate having jurisdiction in the case or to the officer-in-charge of the nearest police-station.

Power to release on a bond a person arrested

47. Any Forest Officer of a rank not inferior to that of a Ranger, who, or whose subordinate, has arrested any person under the provisions of section 46, may release such person on his executing a bond to appear if and when so required, before the Magistrate having jurisdiction in the case or before the officer-in-charge of the nearest police-station.

Power to prevent commission of offence.

48. Every Forest Officer and Police Officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest-offence.

Power to try offences summarily.

49. The District Magistrate or any Magistrate of the first class specially empowered in this behalf by the Provincial Government may try summarily, under the Code of Criminal Procedure, 1898, any forest-offence punishable with imprisonment for a term not exceeding six months, or with fine not exceeding five hundred rupees, or with both.

V of 1898.

Power of Court to order payment or rewards out of fine.

50. Whenever a Court imposes a fine under this Ordinance or confirms in appeal under this Ordinance a sentence of fine or a sentence of which fine forms a part, for a forest-offence other than an offence specified in sub-section (1) of section 6 or section 44, the Court may, when passing judgment, order any portion of the fine recovered to be paid to the person whose information led to the detection of the offence.

Power to compound offences.

51. (1) The Provincial Government may, by notification, empower a Forest Officer—

- (a) to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence, other than an offence specified in sub-section (1) of section 6, section 44 or section 45, a sum of money, not exceeding fifty rupees, by way of compensation for the offence which such person is suspected to have committed; and
- (b) when any property of such person has been seized, to release the same on payment of the value thereof as estimated by such officer.

of 1959.]

(Sections 52, 53.)

(2) On the payment of such sum of money to such officer, the suspected person, if in custody, shall be discharged, the property, if any, of such person seized shall be released, and no further proceedings shall be taken against such person or property.

(3) If the forest-offence has been committed in respect of a controlled forest, the amount of any compensation paid to a Forest Officer empowered under sub-section (1) to accept such compensation, or such part of such amount as the Forest Officer deems equitable in the circumstances, may, at the discretion of the Forest Officer, be paid to the owner of the controlled forest; but the amount of any compensation not so paid to the owner of a controlled forest and the amount of any compensation paid to such a Forest Officer if the forest-offence has been committed in respect of a vested forest shall be paid into the revenues of the Province.

(4) A Forest Officer shall not be empowered under this section unless he is a Forest Officer of a rank not inferior to that of a Ranger.

52. Notwithstanding anything contained in any other Act, when in any area in respect of which the Provincial Government has made rules under clause (b) of sub-section (2) of section 41 of the Forest Act, 1927, any person is found to be moving forest-produce without a pass from an officer duly authorised to issue the same, the burden of proof that such person has not committed an offence under this Ordinance in respect of such forest-produce shall lie on him. Onus of proof.

XVI of
1927.

CHAPTER V.

Regional Forest Officers.

53. (1) The Provincial Government may invest any Regional Forest Officers with all or any of the following powers, that is to say:— Provincial Government may invest Regional Forest Officers with certain powers.

(a) power to enter upon any land, or to authorise any officer to enter thereon with servants and workmen, and to survey, demarcate and make a map of the same;

(b) the power of a Civil Court to compel the attendance of witnesses and the production of documents and material objects;

(c) power to issue a search-warrant under the Code of Criminal Procedure, 1898; and

V of
1898.

(Sections 54—57.)

(d) power to hold an inquiry into forest-offences, and, in the course of such inquiry, to receive and record evidence.

(2) Any evidence recorded under clause (d) of subsection (1) shall be admissible in any subsequent trial before a Magistrate, provided that it has been taken in the presence of the accused person.

Power of
officers.

54. It shall be lawful for any officer authorised either generally or specially in this behalf by the Regional Forest Officer to enter with his subordinates and servants and workmen at any time upon any part of a controlled forest for the purpose of ascertaining whether there has been any violation of an approved working plan and to do any other acts which are in his opinion necessary for carrying out the purposes of this Ordinance.

Forest Offi-
cers deemed
public ser-
vants.

55. All Forest Officers shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code. XLV of 1860.

Indemnity
for acts done
in good
faith.

56. No suit shall lie against any public servant for anything done by him in good faith under this Ordinance.

CHAPTER VI.

Rules.

Power to
make rules.

57. (1) The Provincial Government may make rules for carrying out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, the Provincial Government may make rules to provide for all or any of the following matters, namely:—

(a) the cutting, sawing, conversion and removal of trees and timber, and the collection, manufacture and removal of forest-produce from controlled or vested forests in notified areas;

(b) the granting of licenses to the inhabitants of towns and villages in the vicinity of controlled or vested forests to take trees, timber or other forest-produce for their own use, and the production and return of such licenses by such persons;

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(Section 57.)

- (c) the granting of licenses to persons for selling or removing trees or timber or other forest-produce from controlled or vested forests for the purposes of trade, and the production and return of such licenses by such persons;
- (d) the payments, if any, to be made by the persons mentioned in clauses (b) and (c) for permission to cut such trees, or to collect and remove such timber or other forest-produce;
- (e) the other payments, if any, to be made by them in respect of such trees, timber and produce, and the places where such payment shall be made;
- (f) the examination of forest produce passing out of controlled or vested forests in notified areas;
- (g) the clearing and breaking up of land for cultivation or other purposes in controlled or vested forests in notified areas;
- (h) the protection from fire of timber lying in controlled or vested forests in notified areas;
- (i) the cutting of grass and pasturing of cattle in controlled or vested forests in notified areas;
- (j) hunting, shooting, fishing, poisoning water and setting traps or snares in controlled or vested forests, and the killing or catching of elephants in such forests in areas in which the Elephants' Preservation Act, 1879 is not in force;
- (k) the powers and duties of Forest Officers under this Ordinance;
- (l) the procedure of an Appellate Committee referred to in clause (1) of section 2 and the manner in which an owner of a private forest shall be selected as a member of such Appellate Committee;
- (m) the procedure of Board appointed to perform the functions of a Forest Settlement Officer referred to in clause (9) of section 2;
- (n) the manner in which the working plan referred to in sub-section (1) of section 3 shall be prepared, the consultation referred to in sub-sections (2) and (3) of that section shall be made and the copy of the order referred to in sub-section (4) of that section shall be served;
- (o) the manner in which the approved working plan shall be sent under sub-section (2) of section 4

VI of
1879.

(Section 57.)

and the consultation referred to in sub-section (3) of that section shall be made;

- (p) the grant of loans referred to in sub-section (1) of section 8, the manner of making applications for such loans under sub-section (2) of that section, the manner in which such applications shall be considered and the recovery of such loans and the interest and costs in respect thereof under sub-section (4) of that section;
- (q) the manner in which the consultation referred to in sub-sections (1) and (2) of section 9 shall be made and copies of the orders passed under the said sub-sections shall be served;
- (r) the manner in which the copy of a notification issued under sub-section (1) of section 10 shall be served under sub-section (2) of that section, the determination by the Forest Settlement Officer of the matters specified in clause (c) of sub-section (4) of that section, the determination of compensation referred to in sub-section (5) of that section, the maximum amount of an award against which no appeal shall lie under clause (v) of that sub-section, the manner of payment of compensation under sub-section (6) of that section, and the manner in which the consultation referred to in sub-section (9) of that section shall be made, a copy of the order referred to in that sub-section shall be served and the working plan referred to in that sub-section shall be prepared;
- (s) the apportionment of rent referred to in clause (i) of sub-section (1) of section 12;
- (t) the manner in which the cost of management referred to in sub-section (1) of section 16 and the respective shares of the owners of a vested forest and the net profits in respect of such forest referred to in sub-section (5) of that section shall be determined or calculated and the copy of the statement referred to in sub-section (6) of that section shall be served;
- (u) the manner in which the cess referred to in sub-section (1) of section 17 may be imposed and the costs and expenses referred to in sub-section (2) of that section shall be determined;
- (v) the manner in which the working plan referred to in clause (a) of the first proviso to sub-section (1) of section 18 shall be prepared;

of 1959.]

(Sections 58, 59.)

- (w) the clearing of land for cultivation or for any other purpose and the cutting, conversion and the removal of timber and the collection, manufacture and removal of other forest-produce referred to in section 21;
- (x) the language other than Bengali referred to in sub-section (1) of section 22 and in sub-section (2) of section 28;
- (y) the manner in which the compensation referred to in sub-section (2) of section 25 shall be paid;
- (z) the manner in which the notice referred to in sub-section (1) of section 35 shall be published;
- (zz) the manner in which the forest-produce referred to in sub-section (3) of section 60 shall be sold; and
- (zzz) the manner of service of notices issued under this Ordinance.

(3) In making any rule under this section the Provincial Government may provide that a contravention thereof shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees or with both.

XVI of 1927. 58. All rules made by the Provincial Government to regulate the transit of timber and other forest-produce under sections 41 and 42 of the Forest Act, 1927, for the time being in force, shall apply so far as may be to the transit of all timber and other forest-produce from any private forest to which any of the provisions of this Ordinance apply.

Application of rules made under sections 41 and 42 of the Forest Act 1927, to transit of forest-produce from private forest.

CHAPTER VII.

Miscellaneous.

59. Notwithstanding anything elsewhere contained in this Ordinance, the Provincial Government may, on application made in this behalf in writing by the owner of any private forest or of any waste land referred to in sub-section (1) of section 11 or, if there be more than one owner thereof, by the owners of shares therein amounting in the aggregate to at least one-half thereof, to the Collector of the district in which such forest or land is situated, by a notification, apply the provisions of this Ordinance, applicable to vested forests, subject to

Conservation of forest or afforestation of land at the request of owners.

(Sections 60—62.)

such restrictions or conditions as may have been determined by an agreement between the said Collector and such person or persons, to such forest or land and thereupon such forest or land shall be managed on behalf of such owner or owners as a vested forest in accordance with such provisions by a Regional Forest Officer specified in this behalf by the Provincial Government.

Recovery of money due to Regional Forest Officer and lien on forest-produce for such money.

60. (1) All money payable to a Regional Forest Officer under this Ordinance or under any rule made under this Ordinance, other than money payable in respect of the cost of management of a vested forest, and all money payable to such officer on account of the price of any forest-produce or on account of expenses incurred in the execution of this Ordinance, in respect of such produce shall, if not paid when due, be recoverable as a public demand under the Bengal Public Demands Recovery Act, 1913.

Ben. Act
III of
1913.

(2) When any such money is payable for or in respect of any forest-produce, the amount thereof shall be deemed to be a first charge on such produce and such produce may be taken possession of by a Regional Forest Officer until such amount has been paid.

(3) If such amount is not paid when due, the Regional Forest Officer may sell such produce in the prescribed manner, and after payment of the costs of the sale the proceeds thereof shall be applied first in discharging such amount.

(4) The surplus, if any, if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to the Provincial Government.

Land required under this Ordinance to be deemed to be needed for a public purpose under the Land Acquisition Act, 1894.

61. Whenever it appears to the Provincial Government that any land is required for any of the purposes of this Ordinance, such land shall be deemed to be needed for a public purpose within the meaning of section 4 of the Land Acquisition Act, 1894.

I of 1894.

Powers of the Regional Forest Officer and control of the Provincial Government.

62. Subject to the provisions of this Ordinance, and to any rules made thereunder, every Regional Forest Officer—

(a) may do all such things requisite for the proper management of the forest the control of which has been vested in him under this Ordinance as

of 1959.]

(Sections 63, 64.)

the owner of such forest might do for its management, and

(b) shall in the exercise of his powers and in the performance of his duties in relation to such forest be guided by such orders and instructions as may, from time to time, be issued in this behalf by the Provincial Government..

XVI of 1927. 63. (1) Sections 35, 36, 37 and 38 of the Forest Act, 1927, in their application to East Pakistan are hereby repealed. Repeal and savings.

(2) Such repeal shall not affect anything done or suffered or any obligation or liability accrued or any penalty incurred or any proceedings commenced before the commencement of this Ordinance.

XVI of 1927. (3) Any private forest or waste land held under the control of a Forest Officer under section 36 of the Forest Act, 1927, immediately before the commencement of this Ordinance, shall, on such commencement, notwithstanding the repeal of the said section, continue to be so held under the control of a Regional Forest Officer under the provisions of this Ordinance, applicable to a vested forest and shall be deemed to be vested forest for the purposes of this Ordinance.

XVI of 1927. (4) All lands which immediately before the commencement of this Ordinance, were being managed as a reserved or a protected forest under the provisions of section 38 of the Forest Act, 1927, shall, on such commencement, notwithstanding the repeal of the said section, continue to be managed under the provisions of section 59 of this Ordinance as a vested forest subject to such terms as may have been mutually agreed upon between the owner or owners of such lands and the Collector and the application made under sub-section (1) of the said section 38 by the owner or owners of any such land shall be deemed to be an application made under the said section 59.

B. Act of 1950. 64. (1) The East Bengal Laws (Amendment and Repeal) Act, 1949, in so far as it re-enacts and continues in operation the Bengal Private Forests Act, 1945, is hereby repealed. Repeal of Bengal Act XI of 1945.

(Section 64.)

(2) Any proceedings commenced under any provisions of the Bengal Private Forests Act, 1945 as re-enacted and continued in operation by the East Bengal Laws (Amendment and Repeal) Act, 1949 shall be continued and be, as far as may be, deemed to have been commenced under the corresponding provision of this Ordinance and any appointment or order made under the said Act shall, for the purposes of the said proceedings, be deemed to have been made under this Ordinance, as if this Ordinance was in operation when the said proceedings were commenced or such appointment or order was made.

Ben. Act
XI of
1945.
E. B. Act
V of 1950.

East Pakistan Ordinance No. XXXVI of 1959.

THE EAST PAKISTAN CADET COLLEGE ORDINANCE, 1959.

[22nd May, 1959.]

An Ordinance to incorporate the East Pakistan Cadet College at Fauzdarhat in the district of Chittagong.

WHEREAS it is expedient to incorporate the East Pakistan Cadet College at Fauzdarhat in the district of Chittagong;

Now, THEREFORE, in pursuance of the Presidential Proclamation of the seventh day of October, 1958, and in exercise of all powers enabling him in that behalf, the Governor of East Pakistan is pleased to make and promulgate the following Ordinance, namely:—

1. (1) This Ordinance may be called the East Pakistan Cadet College Ordinance, 1959. Short title,
extent and
commence-
ment.

(2) It extends to the whole of East Pakistan.

(3) It shall come into force at once.

2. In this Ordinance, unless there is anything repugnant in the subject or context,— Definitions.

(a) “cadet” means a student of the College;

(b) “college” means the East Pakistan Cadet College.

(c) “first Governing Body” means the Governing Body reconstituted under notification No. 589Edn., dated the 23rd January, 1959;

(d) “Governing Body” means the Governing Body of the East Pakistan Cadet College; and

(e) “regulation” means a regulation made by the Governing Body under this Ordinance.

3. (1) The members of the first Governing Body of the College and all persons who may hereafter become such members, so long as they continue to hold such membership, are hereby constituted a body corporate by the name of the East Pakistan Cadet College, and shall have perpetual succession and a common seal, and shall sue and be sued by that name. Incorporation.

(2) The headquarters of the College shall be located at Fauzdarhat in the district of Chittagong.

[E. P. Ord. No. XXXVI

(Sections 4, 5.)

Powers and
functions of
the College.

4. The College shall exercise the following powers and perform the following duties, namely:—

- (a) to provide a sound liberal public school education with a slight military bias;
- (b) to provide elementary military training to Cadets;
- (c) to provide for instruction in such branches of learning as the College may think fit; and
- (d) to do all such other acts and things, whether incidental to the powers aforesaid or not, as may be requisite in order to further the objects of the College as a teaching institution and to cultivate and promote arts, science and other branches of learning.

Constitution
of the Gover-
ning Body.

5. The Governing Body shall consist of the following, namely:—

- (a) The G.O.C., East Pakistan—*Chairman (Ex-officio)*;
- (b) Commissioner, Chittagong Division—*Member (Ex-officio)*;
- (c) Secretary, Education Department of the Government of East Pakistan—*Member (Ex-officio)*;
- (d) Secretary, Finance Department of the Government of East Pakistan—*Member (Ex-officio)*;
- (e) Director of Public Instruction, East Pakistan—*Member (Ex-officio)*;
- (f) Education Adviser and *Ex-officio* Joint Secretary to the Government of Pakistan, Ministry of Education, Karachi—*Member (Ex-officio)*;
- (g) Naval Officer-in-charge, Chittagong—*Member (Ex-officio)*;
- (h) The Senior-most Pakistan Air Force Officer serving in East Pakistan—*Member (Ex-officio)*;
- (i) Director of Army Education, GHQ., Rawalpindi—*Member (Ex-officio)*;
- (j) Principal, East Pakistan Cadet College, Chittagong—*Member-Secretary*.

of 1959.]

(Sections 6, 7.)

6. (1) The Governing Body shall be the supreme and final authority in all matters connected with the administration and management of the College and shall exercise all the powers of the College not otherwise provided for by this Ordinance. The assets of the College shall vest in the Governing Body.

Powers and duties of the Governing Body.

(2) Subject to other provisions contained in this Ordinance, the Governing Body,—

- (a) shall hold, control and administer the property and funds of the College;
- (b) shall determine the form, provide for the custody and regulate the use, of the common seal of the College;
- (c) shall submit to the Provincial Government annually a full statement of the financial requirements of the College;
- (d) shall administer any funds placed at the disposal of the College for specific purposes;
- (e) shall have power to accept on behalf of the College transfers of any movable or immovable property;
- (f) subject to the provisions of this Ordinance shall appoint the Principal and other members of the staff and shall define their duties and the conditions of service and shall provide for the filling up* of temporary vacancies in his post and in the staff;
- (g) shall consider, examine and initiate proposals for the improvement of the College;
- (h) shall prescribe courses of instruction for all classes of the College;
- (i) shall consider and pass such resolutions on the annual report, the annual accounts and the financial estimates as it thinks fit; and
- (j) shall exercise such other powers and functions and such other duties as may be conferred or imposed on it by this Ordinance or the regulation.

7. The Governor of East Pakistan may, by an order in the *Official Gazette*, supersede the Governing Body when he considers that it has failed to discharge its duties properly.

Power to supersede the Governing Body.

(Sections 8—12.)

Annual
Report.

8. (1) The annual report of the College shall be prepared under the direction of the Governing Body, and shall be submitted to the Provincial Government within three months of the close of the academic year to which such report relates.

(2) The Provincial Government may make suggestions on the annual report and communicate the same to the Governing Body which shall take such actions as it thinks fit, and the Governing Body shall inform the Provincial Government of the action taken by it.

Annual
Account.

9. (1) The annual accounts and balance-sheet of the College shall be prepared under the direction of the Governing Body, and shall be submitted to the Provincial Government for approval.

(2) The accounts of the College shall be audited by the Accountant-General, East Pakistan, and the audit report together with the Governing Body's comments thereon shall be submitted to the Provincial Government for approval.

(3) The annual budget estimate shall be considered by the Governing Body which shall submit the same to the Provincial Government for approval five months before the commencement of the financial year to which the budget relates.

(4) The Provincial Government may make block grants to the College both for capital and recurring expenditure in accordance with the approved budget.

Power to
make regula-
tions.

10. The Governing Body of the College may make regulations, not inconsistent with the provisions of this Ordinance, for carrying out the purposes of this Ordinance.

Proceedings
of the College
authorities
not invalid-
ated by vac-
ancies.

11. No act or proceeding of the Governing Body of the College shall be invalidated merely by reason of the existence of a vacancy or vacancies among its members.

Power to re-
move diffi-
culties.

12. If any difficulty arises with respect to the establishment of the College or Governing Body of the College or otherwise in first giving effect to the provisions of this Ordinance, the Governor may, by order, make any appointment or do anything which appears to him necessary or expedient and every such order shall have effect as if such appointment or action had been made or taken in the manner provided in this Ordinance.

East Pakistan Ordinance No. XLI of 1959.

THE EAST PAKISTAN TRANSFER OF CERTIFICATE CASES ORDINANCE, 1959.

[25th June, 1959.]

An Ordinance to provide for the transfer of certificate cases pending before the Munsifs and to make certain other provisions.

WHEREAS it is expedient to provide for the transfer of all certificate cases pending before the Munsifs and to make certain other provisions in connection therewith ;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the seventh day of October, 1958, and in exercise of all powers enabling him in that behalf, the Governor of East Pakistan is pleased to make and promulgate the following Ordinance, namely :—

1. (1) This Ordinance may be called the East Pakistan Transfer of Certificate Cases Ordinance, 1959. Short title, extent and commencement.

(2) It shall extend to the whole of East Pakistan.

(3) It shall come into force at once.

E.P. Ord. VIII of 1959. Re-transfer of certificates pending before Munsifs.
2. Notwithstanding anything contained in section 3 of the East Pakistan Recovery of Rent (Special Provisions) (Repeal) Ordinance, 1959, any certificate pending before a Munsif under the provisions of the said section shall, as from the date of commencement of this Ordinance, stand transferred to the Certificate-officer of the district who shall take all subsequent actions in respect of the certificate in accordance with the provisions of the Bengal Public Demands Recovery Act, 1913.

Ben. Act II of 1913.

E.P. Ord. XXXIX of 1958. Re-transfer of appeal or application for revision or review to the Collector, Commissioner or Board of Revenue.
3. (1) Any appeal or application for revision or review transferred to the District Judge under sub-section (2) of section 4 of the East Pakistan Recovery of Rent (Special Provisions) (Third) Ordinance, 1958 and pending before him immediately before the commencement of this Ordinance shall, as from the date of commencement of this Ordinance, stand re-transferred to the Collector, Commissioner or the Board of Revenue, as the case may be, before whom it was pending immediately before such transfer.

E. P. Ord. XXXIX of 1958. Re-transfer of appeal or application for revision or review to the Collector, Commissioner or Board of Revenue.
(2) Any appeal or application for revision filed before the District Judge under sub-section (3) of section 4 of the East Pakistan Recovery of Rent (Special Provisions) (Third) Ordinance, 1958 or under section 51 of the Bengal

(Sections 4, 5.)

Public Demands Recovery Act, 1913, as substituted by the said Ordinance and pending before him immediately before the commencement of this Ordinance shall, as from the date of commencement of this Ordinance, stand transferred to the Collector of the district who shall deal with the same under the provisions of the Bengal Public Demands Recovery Act, 1913.

Ben. Act
III of
1913.

Ben. Act
III of
1913.

**Transitory
provisions.**

4. Any appeal from an order of a Munsif which, but for the repeal of the East Pakistan Recovery of Rent (Special Provisions) (Third) Ordinance, 1958, would have laid to the District Judge under the provisions of section 51 of the Bengal Public Demands Recovery Act, 1913, as substituted by the said Ordinance, shall lie to the Collector of the district concerned within 30 days from the date of commencement of this Ordinance.

E.P. Ord.
XXXIX
of 1958.

Ben. Act
III of
1913.

**Interpreta-
tion.**

5. The words and expressions used in this Ordinance shall have the same meanings as in the Bengal Public Demands Recovery Act, 1913.

Ben. Act
III of
1913.

East Pakistan Ordinance No. XLV of 1959.

**THE EAST PAKISTAN APPROPRIATION (No. II)
ORDINANCE, 1959.**

[30th June, 1959.]

An ordinance to authorise payment and appropriation of certain sums from and out of the Provincial Consolidated Fund of East Pakistan for the service of the financial year ending on the 30th day of June, 1960.

WHEREAS it is expedient to authorise payment and appropriation of certain sums from and out of the Provincial Consolidated Fund of East Pakistan for the service of the financial year ending on the 30th day of June, 1960 ;

Now, therefore, in pursuance of the Presidential Proclamation of the 7th day of October, 1958, and in exercise of all powers enabling him in that behalf, the Governor is pleased to make and promulgate the following Ordinance, namely :—

1. This Ordinance may be called the East Pakistan Short title.
Appropriation (No. II) Ordinance, 1959.

2. From and out of the Provincial Consolidated Fund of East Pakistan there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of rupees one hundred thirty-five crores, eighty-four lakhs and fifty-five thousand only towards defraying the several charges which will come in course of payment during the financial year ending on the 30th day of June, 1960, in respect of the services and purposes specified in column 2 of the Schedule.

Issue of Rs.
135,84,55,000
out of the
Provincial
Consolidated
Fund of East
Pakistan for
the year
1959-60.

3. The sums authorised to be paid and applied from and out of the Provincial Consolidated Fund of East Pakistan by this Ordinance shall be appropriated for the services and purposes expressed in the Schedule in relation to financial year ending on the 30th day of June, 1960.

Appropriation.

The Ordinance was applied to the Chittagong Hill-tracts with effect from the 1st July, 1959, vide Notification No. 6196 F. B., dated 27th July, 1959, published in *Dacca Gazette*, dated 6th August, 1959, Part I, page 570.

(The Schedule.)

THE SCHEDULE.

(See sections 2 and 3).

1	2	3	Sums not exceeding.	
			Sums required to meet the expenditure charged on the Provincial Consolidated Fund.	Sums required to meet other expenditure.
Grant Nos.	Services and purposes (Major Heads of Account).		Rs.	Rs.
1	4—Taxes on income other than Corporation Tax ..	..	..	5,65,000
2	5—Salt	..	..	60,000
3	7—Land Revenue	..	..	5,50,75,000
4	8—Provincial Excise	..	..	19,92,000
5	9—Stamps	..	..	12,76,000
6	10—Forest	..	..	64,25,000
	65—A—Capital Outlay on Forest	..	..	85,38,000
7	11—Registration	..	..	36,63,000
8	13—Other Taxes and Duties	..	..	53,000
9	17—Interest on works for which Capital Accounts are kept		13,15,000	..
9	XVII—Irrigation—Working expenses	..	..	27,58,000
	18—Other Revenue expenditure financed from Ordinary Revenues.		..	28,29,000
	68—Construction of Irrigation, Navigation, Embankment and Drainage Works.		..	15,48,90,000
	22—Interest on Debt and other obligations ..		59,57,000	..
	23—Appropriation for reduction or avoidance of Debt		2,35,21,000	..
10	25—General Administration—General Administration		6,66,000	2,40,71,000
11	27—Administration of Justice	..	14,19,000	75,77,000
12	28—Jails and Convict Settlement	..	..	91,76,000
13	29—Police	..	..	8,36,20,000
14	30—Ports and Pilotage	..	..	12,34,000
	73—Capital Outlay on Ports	..	..	..
15	36—Scientific Departments	..	..	7,000

of 1959.]

(The Schedule.)

1	2	3	
		Sums not exceeding.	
Grant Nos.	Services and purposes (Major Heads of Account).	Sums required to meet the expenditure charged on the Provincial Consolidated Fund.	Sums required to meet other expenditure.
		Rs.	Rs.
16	37—Education—General	10,00,000	2,31,33,000
17	38—Medical	..	1,41,15,000
18	39—Public Health	..	45,88,000
	70—Capital Outlay on improvement of Public Health ..	..	43,88,000
19	40—Agriculture	..	87,99,000
	71—Capital Outlay on Schemes of Agricultural Improvement and Research Agriculture.	..	1,47,92,000
20	41—Veterinary	..	25,38,000
	71—Capital Outlay on Schemes of Agricultural Improvement and Research (Veterinary).	..	25,69,000
21	42—Co-operation	..	26,64,000
22	43—Industries	..	22,25,000
	72—Capital Outlay on Industrial Development (Industries).	..	84,91,000
23	43—Industries—Fisheries	..	5,63,000
	72—Capital Outlay on Industrial Development (Fisheries)	..	12,60,000
24	47—Miscellaneous Department	..	41,12,000
25	50—Civil Works	2,13,000	2,11,91,000
	81—Civil Works not charged to Revenue	..	6,63,39,000
26	XLI—Electricity Schemes—Working Expenses—Other than Establishment.	..	1,12,47,000
27	81A—Capital Outlay on Electricity Schemes—Working Expenses other than Establishment.	..	2,33,59,000
28	XLI—Electricity Schemes—Charges on Establishment and Miscellaneous Expenditure.	..	10,31,000
	52A—Other Revenue Expenditure connected with Electricity Schemes.	..	3,66,000
	81A—Capital Outlay on Electricity Schemes—Charges on Establishment and Miscellaneous Expenditure.	..	10,06,000

[E. P. Ord. No. XLV of 1959.]

(The Schedule.)

1	2	3	
		Sums not exceeding.	
Grant Nos.	Services and purposes (Major Heads of Account).	Sums required to meet the expenditure charged on the Provincial Consolidated Fund.	Sums required to meet other expenditure.
		Rs.	Rs.
29	54—Famine	..	78,30,000
30	55—Superannuation Allowances and Pensions ..	1,25,000	65,63,000
	55A—Commutation of Pensions financed from Ordinary Revenues.	3,000	18,00,000
	83—Payment of commuted value of Pensions ..	..	..
31	56—Stationery and Printing	..	49,38,000
32	57—Miscellaneous	20,34,000	1,68,38,000
33	63B—Development	..	9,29,31,000
34	64B—Civil Defence	..	1,73,000
35	80—Town Development Schemes	..	3,28,81,000
36	85A—Capital Outlay on Provincial Schemes of State Trading.	22,75,000	49,35,36,000
37	90—Provincial Miscellaneous Investment	..	50,00,000
	Floating Debt	4,21,00,000	..
38	Loans and Advances bearing Interest	..	3,27,52,000
	Total	8,06,28,000	127,78,27,000
		1,35,84,55,000	

East Pakistan Ordinance No. XLVI of 1959.

**THE EAST PAKISTAN FINANCE (No. II) ORDINANCE,
1959.**

[30th June, 1959.]

An Ordinance to continue in force certain taxes for the purpose of meeting expenditure on rehabilitation of refugees and for augmentation of the revenues of the Province.

WHEREAS it is expedient to continue in force certain taxes for the purpose of meeting expenditure on rehabilitation of refugees and for augmentation of the revenues of the Province as hereinafter provided;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the 7th day of October, 1958, and in exercise of all powers enabling him in that behalf, the Governor is pleased to make and promulgate the following Ordinance, namely:—

1. (1) This Ordinance may be called the East Pakistan Finance (No. II) Ordinance, 1959. Short title and extent.

(2) It extends to the whole of East Pakistan.

2. During the period from the 1st day of July, 1959 and the 30th day of June, 1960 (both days inclusive), hereinafter referred to in this section as the said period, the Bengal Motor Vehicles Tax Act, 1932, and the Assam Motor Vehicles Taxation Act, 1936, shall have effect as if for the First Schedule thereto the following were substituted, namely:— Amendment of the Bengal Motor Vehicles Tax Act, 1932 and the Assam Motor Vehicles Taxation Act, 1936.

Beng. Act I of 1932.
Assam Act IX of 1936.

“THE FIRST SCHEDULE

Description of Motor Vehicles and rate of tax.

I.—Bicycles and Tricycles.

Rate of tax payable for the year.

Cycles (including motor-scooters and cycles with attachment for propelling the same by mechanical power) not exceeding eight hundred-weight in weight unladen—

(a) Bicycles propelled by mechanical power—

- | | |
|---|-----------------------------------|
| (i) not exceeding two hundred pounds in weight unladen. | Thirty-three rupees twelve annas. |
| (ii) exceeding two hundred pounds in weight unladen. | Forty-five rupees. |
| (iii) if used for drawing a trailer or sidecar in addition to the tax payable under (i) and (ii). | Eleven rupees four annas. |

(b) Tricycles propelled by mechanical power .. Sixty-seven rupees eight annas.

*(The First Schedule)**II.—Vehicles for carrying passengers not plying for hire.*

	Rate of tax payable for the year.	
(a) Vehicles measuring not more than forty square feet.	One hundred and two rupees.	
(b) Vehicles measuring more than forty square feet but not measuring sixty square feet.	One hundred and twenty rupees.	
(c) Vehicles measuring sixty square feet and more than sixty square feet.	One hundred and sixty-nine rupees eight annas.	

Area to be measured by wheel base $\times$ track.

III.—Vehicles for carrying passengers plying for hire.

	Rate of tax payable for the year.	
	Vehicles fitted entirely with pneumatic tyres.	Other vehicles.
(a) Seating not more than eight persons.	Rupees one hundred and forty-nine and annas eight.	Rupees one hundred and eighty-seven.
(b) Seating more than eight persons, in addition to the tax payable under (a), for every additional person that can thus be seated up to thirty:	Four rupees eight annas.	Six rupees.
Provided that in the case of (b) above, in addition to the tax leviable thereunder a sum of Rs.63 <i>per annum</i> shall be payable.		
(c) Seating more than thirty persons, in addition to the tax payable under (a) and (b), for every additional person that can thus be seated.	Three rupees	.. Six rupees.
(d) Tricycles propelled by mechanical power.	One hundred and twenty-five rupees.	..

IV.—Vehicles for transport of goods.

(a) Not exceeding twelve hundred-weight in weight unladen.	One hundred and twenty-five rupees.	One hundred and sixty-two rupees eight annas.
(b) Exceeding twelve hundred-weight but not exceeding one ton in weight unladen.	Two hundred rupees	Two hundred and seventy-five rupees.
(c) Exceeding one ton, but not exceeding two tons in weight unladen.	Two hundred and sixty-two rupees eight annas.	Three hundred and thirty-seven rupees eight annas.

of 1959.]

(The First Schedule and Section 3.)

Rate of tax payable for the year.

	Vehicles fitted entirely with Pneumatic tyres.	Other Vehicles.
(d) Exceeding two tons, but not exceeding three tons in weight unladen.	Three hundred rupees.	Three hundred and seventy-five rupees.
(e) Exceeding three tons, but not exceeding four tons in weight unladen.	Three hundred and seventy-five rupees	Four hundred and fifty rupees.
(f) Exceeding four tons, but not exceeding five tons in weight unladen.	Five hundred and twenty-five rupees.	Six hundred rupees.
(g) Exceeding five tons	Six hundred and seventy-five rupees.	Eight hundred and twenty-five rupees.
(h) If used for drawing a trailer in addition to the tax payable under (a) to (g), for each trailer:	One hundred rupees.	One hundred rupees.

Provided that, if one trailer is used with more than one vehicle, only one tax shall be chargeable under (h) in respect of such trailer for all such vehicles."

3. (1) During the period from 1st day of July, 1959 and the 30th day of June, 1960 (both days inclusive), there shall be levied and collected a toll on steam-vessels and motor-vessels plying in inland waters at the rates specified hereunder:—

Toll on vessels plying in inland waters.

On vessels of a tonnage of—

less than 100 tons	.. Rupees four hundred and fifty.
100 tons and less than 500 tons	Rupees six hundred.
500 tons and less than 1,000 tons.	Rupees one thousand.
1,000 tons and upwards	.. Rupees two thousand.

(2) The toll shall be payable by the owner or the charterer of the vessel.

(3) The Provincial Government may make rules regulating the procedure for the collection and payment of the toll and other matters incidental to its levy.

(4) In this section, "steam-vessels" and "motor-vessels" mean every description of vessel propelled wholly or in part by the agency of steam or, as the case may be, oil.

(Sections 4—6.)

Payment of
tax by legal
and income-
tax practi-
tioners.

4. During the period from 1st day of July, 1959 and the 30th day of June, 1960 (both days inclusive), there shall be levied and collected from the legal practitioners of not less than 5 years' standing and Income-tax practitioners, a tax of Rs.20.

Payment of
tax by Clear-
ing Agents
and Contrac-
tors.

5. During the period from the 1st day of July, 1959 and the 30th day of June, 1960 (both days inclusive), there shall be levied and collected from Clearing Agents, licensed or approved as Custom House Agents, and contractors supplying goods, commodities and services to Government or local bodies and every person holding licence under the Imports and Exports (Control) Act, 1950, a tax of Rs.50:

XXXIX
of 1950,

Provided that if any such person as aforesaid is liable to pay a tax under the East Bengal Finance Act, 1950, the tax under this section shall be levied and collected from such person at the rate of Rs.20.

E. B. Act
XVI of
1950.

Toll on fares
and freights
on traffic by
inland
vessels.

6. (1) During the period from the 1st day of July, 1959 and the 30th day of June, 1960 (both days inclusive), there shall be levied and collected on fares and freights charged for transport by steam-vessels and motor-vessels plying in inland waters a toll according to the scale specified below—

Scale.

Part I—Fares (passengers).	Amount of tax.
On a first class ticket	.. Rupee one.
On a second class ticket	.. Annas eight.
On an inter-class ticket	.. Annas four.
On a third class or deck ticket	.. Annas two.

Provided that no tax shall be levied where the fare does not exceed rupees three.

Part II—Freights (goods).	Amount of tax.
Where the freight on any consign- ment does not exceed Rs. 3.	Nil.
Where the freight on any consign- ment exceeds Rs. 3 but does not exceed Rs. 10.	Annas two.

Part II—Freights (goods).	Amount of tax.
Where the freight on any consignment exceeds Rs. 10 but does not exceed Rs. 25.	Annas four.
Where the freight on any consignment exceeds Rs. 25 but does not exceed Rs. 50.	Annas eight.
Where the freight on any consignment exceeds Rs. 50 but does not exceed Rs. 75.	Rupee one.
Where the freight on any consignment exceeds Rs. 75 but does not exceed Rs. 100.	Rupees two.
Where the freight on any consignment exceeds Rs. 100 but does not exceed Rs. 150.	Rupees four.
Where the freight on any consignment exceeds Rs. 150 but does not exceed Rs. 225.	Rupees six.
Where the freight on any consignment exceeds Rs. 225 but does not exceed Rs. 300.	Rupees eight.
Where the freight on any consignment exceeds Rs. 300.	Rupees eight <i>plus</i> rupees two for every Rs. 100 in excess of Rs. 300 of freight.

(2) The toll shall be collected by the owner or the charterer of the vessel and paid to the Provincial Government.

(3) The Provincial Government may make rules regulating the procedure for the collection and payment of the toll and any other matter incidental to its levy.

(4) In this section, "Steam-vessels" and "Motor-vessels" have the same meaning as in section 3.

7. (1) During the period from the 1st day of July, 1959 and the 30th day of June, 1960 (both days inclusive), there shall be levied and collected on freights charged Toll on freights on goods carried by road.

(Section 7.)

for goods transported by motor vehicles by road a toll according to the scale specified below—

Freights (goods).	Amount of tax.
Where the freight on any consignment does not exceed Rs. 3.	Nil.
Where the freight on any consignment exceeds Rs.3 but does not exceed Rs.10.	Anna one.
Where the freight on any consignment exceeds Rs.10 but does not exceed Rs. 25.	Annas two.
Where the freight on any consignment exceeds Rs.25 but does not exceed Rs. 50.	Annas four.
Where the freight on any consignment exceeds Rs.50 but does not exceed Rs. 75.	Annas eight.
Where the freight on any consignment exceeds Rs.75 but does not exceed Rs. 100.	Rupee one.
Where the freight on any consignment exceeds Rs.100 but does not exceed Rs. 150.	Rupees two.
Where the freight on any consignment exceeds Rs.150 but does not exceed Rs.225.	Rupees three.
Where the freight on any consignment exceeds Rs.225 but does not exceed Rs.300.	Rupees four.
Where the freight on any consignment exceed Rs.300.	Rupees four <i>plus</i> rupee one for every Rs.100 in excess of Rs.300 of freight.

(2) The toll shall be collected by the owner of the motor vehicles and paid to the Provincial Government.

(3) The Provincial Government may make rules regulating the procedure for the collection and payment of the toll and any other matter incidental to its levy.

(Sections 8—10.)

8. During the period from the 1st day of July, 1959 and the 30th day of June, 1960 (both days inclusive), Article 53 of Schedule I to the Stamp Act, 1899, shall have effect as if *for* the entry in the second column thereof the following entry were *substituted*:—

“Two annas”.

9. During the period from the 1st day of July, 1959 and the 30th day of June, 1960 (both days inclusive), the East Pakistan Finance Act, 1957, shall have effect as if in subsection (1) of section 6, *for* the word and figure “annas 2”, the word and figure “annas 4” were *substituted*.

10. During the period from the 1st day of July, 1959 and the 30th day of June, 1960 (both days inclusive), the East Pakistan Finance (Third) Ordinance, 1958, shall have effect as if *for* section 3 of the said Ordinance, the following were *substituted*:—

3. (1) Notwithstanding anything contained in the Stamp Act, 1899, every instrument of Conveyance as defined in clause (10) of section 2 of that Act and not being a Transfer charged or exempted under Article 62 of Schedule 1A to that Act, shall be chargeable with additional stamp duty under this Ordinance at the following rate in addition to the duty chargeable under the provision of that Act:—

Of the amount or value of the consideration as set forth in such conveyance. Rate of additional stamp duty.

On the first Rs.10,000	..	One per cent. of such amount or value.
On the next Rs.10,000	..	10 per cent. of such amount or value.
On the next Rs.20,000	..	12 per cent. of such amount or value.
On the next Rs.35,000	..	15 per cent. of such amount or value.
On the next Rs.75,000	..	20 per cent. of such amount or value.
On any additional amount.		25 per cent. of such amount or value.

(Sections 10, 11.)

(2) The additional stamp duty specified in sub-section (1) shall be chargeable in respect of every instrument of—

- (a) Exchange of Property (Article 31),
- (b) Gift (Article 33), not being an instrument of Settlement under Article 58 or Will or Transfer under Article 62,
- (c) Lease including an under-lease or sub-lease which purports to be for a term exceeding 100 years or in perpetuity under Article 35(a) (vii),
- (d) Mortgage-deed under Article 40(a), not being an Agreement relating to deposit of Title-deeds, Pawn or Pledge under Article 6, Bottomry Bond under Article 16, Mortgage of a Crop under Article 41, Respondentia Bond under Article 56 or Security Bond under Article 57, when possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given,
- (e) Power of Attorney as defined in clause (21) of section 2 of the Stamp Act, 1899, not being a proxy, when given for consideration and authorising the Attorney to sell any immovable property under Article 48(f). II of 1899

Explanation—Reference to Article in this sub-section shall be construed as reference to the Article of the Schedule 1A to the Stamp Act, 1899. II of 1899

(3) The amount or value of the consideration of the instruments mentioned in sub-section (2) shall be determined in accordance with the provisions of the Stamp Act, 1899. II of 1899

(4) All the provisions of the Stamp Act, 1899, and the rules made thereunder shall apply in respect of additional stamp duty chargeable under the provisions of this section, as if the additional stamp duty imposed under this section is a duty chargeable under the provisions of that Act." II of 1899.

Saving of rules.

11. The rules made under the provisions of the East Pakistan Finance Act, 1957, shall, with necessary modifications, be deemed to be rules under corresponding provisions of this Ordinance. E. P. Act
X of
1957.

of 1959.]

(Sections 12—14.)

12. If the person on whom the tax is levied or who is responsible for the collection and payment of any tax or toll under this Ordinance fails to pay the tax or toll as provided in this Ordinance and the rules made thereunder, he shall be liable to a penalty not exceeding the amount of the tax or toll payable. **Penalty.**

13. Any tax or toll leviable under the provision of this Ordinance or any penalty imposed thereunder shall be deemed to be public demand within the meaning of the Bengal Public Demands Recovery Act, 1913. **Public demand.**

Ben. Act
III of
1913.

E. P. Ord.
XXIX of
1959.

14. (1) The East Pakistan Finance Ordinance, 1959, is hereby repealed. **Repeal and savings.**

(2) Notwithstanding such repeal, any direction issued, action taken or order passed or proceeding commenced under any provision of the said Ordinance shall continue in force and shall be deemed to have been issued, taken, passed or commenced, as the case may be, under the corresponding provision of this Ordinance, as if this Ordinance had come into force on the date of commencement of the said Ordinance.

East Pakistan Ordinance No. L of 1959.

THE INLAND MECHANICALLY PROPELLED VESSELS (EAST PAKISTAN SECOND AMENDMENT) ORDINANCE, 1959.

[25th July, 1959.]

An Ordinance further to amend the Inland Mechanically Propelled Vessels Act, 1917.

WHEREAS it is expedient further to amend the Inland
I of 1917. Mechanically Propelled Vessels Act, 1917, in the manner
and for the purpose hereinafter appearing ;

Now, THEREFORE, in pursuance of the Presidential Proclamation of the 7th day of October, 1958, and in exercise of all powers enabling him in that behalf, the Governor is pleased to make and promulgate the following Ordinance, namely:—

1. (1) This Ordinance may be called the Inland Mechanically Propelled Vessels (East Pakistan Second Amendment) Ordinance, 1959. Short title and commencement.

(2) It shall come into force at once.

2. In sub-section (1) of section 54A of the Inland
I of 1917. Mechanically Propelled Vessels Act, 1917, *after* the words
“Provincial Government”, the words “or any such authority
authorised in this behalf by the Provincial Government”
shall be *inserted*. Amendment of section 54A of Act I of 1917.

**THE CHITTAGONG DEVELOPMENT AUTHORITY
ORDINANCE, 1959.**

[27th July, 1959.]

An Ordinance to provide for the development, improvement and expansion of the town of Chittagong and certain areas in its vicinity and the constitution of an Authority therefor.

WHEREAS it is expedient to make provision for the development, improvement and expansion of the town of Chittagong and certain areas in its vicinity by opening up congested areas, laying out or altering streets, providing open spaces for purposes of ventilation or recreation, demolishing or constructing buildings, acquiring land for the said purposes and for the re-housing of persons displaced by the execution of improvement schemes, and otherwise as hereinafter appearing ;

AND WHEREAS it is expedient that an Authority should be constituted and invested with special powers for carrying out the objects aforesaid ;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the 7th October, 1958, and in exercise of all other powers enabling him in that behalf, the Governor of East Pakistan is pleased to make and promulgate the following Ordinance, namely:—

CHAPTER I.

Preliminary.

1. (1) This Ordinance may be called the Chittagong Development Authority Ordinance, 1959.

Short title,
extent and
commence-
ment.

(2) It extends to the areas comprised within the limits of the Chittagong Municipality ; but the Provincial Government may, by notification, extend the Ordinance or any provision thereof to such other areas in the vicinity of the said Municipality as may be specified in the notification.

(3) It shall come into force in such areas¹ and on such dates¹ as the Provincial Government may, by notification, specify.

2. In this Ordinance unless there is anything repugnant in the subject or context,—

Definitions.

(a) "Authority" means the Authority established under sub-section (1) of section 3 ;

¹The Ordinance came into force with effect from the 14th August, 1959, in the Chittagong Municipality and in thanas (1) Panchilash, (2) Kotwali and (3) Double Moorings in the vicinity of the said Municipality, vide Notification No. 252 C. D. A., dated the 11th August, 1959, published in the *Dacca Gazette, Extraordinary*, dated the 13th August, 1959, Part I, page 1026.

(Sections 3, 4.)

- (b) "Chairman" means the Chairman of the Authority appointed under sub-section (1) of section 4 ;
- (c) "Controlled area" means an area declared to be controlled area under section 26 ;
- (d) "Land" includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth ;
- (e) "Member" means a member of the Authority appointed under sub-section (1) of section 4 ;
- (f) "The Municipality" means the Chittagong Municipality ;
- (g) "Notification" means notification published in the *Official Gazette* ;
- (h) "Prescribed" means prescribed by rules made under this Ordinance ; and
- (i) "Secretary to the Authority" means the person for the time being appointed by the Authority to discharge the functions of Secretary to the Authority.

CHAPTER II.

Constitution of the Authority.

Establish-
ment of the
Authority.

3. (1) The Provincial Government may, by notification, establish an Authority to be known as the Chittagong Development Authority for carrying out the purpose of this Ordinance.

(2) The Authority shall be a body corporate, shall be entitled to acquire and hold property, shall have perpetual succession and common seal, and shall by the said name sue and be sued.

Chairman,
Members,
Terms.

4. (1) The Authority shall consist of a Chairman and such number of Members not exceeding four as may be appointed by the Provincial Government.

(2) The term of office of the Chairman shall be not more than five years and that of a Member three years, at a time.

Any person ceasing to be the Chairman or Member by reason of the expiry of the term of his office may be reappointed for another term or for such shorter period as the Provincial Government may decide.

(3) The Chairman may be either a wholetime or a part-time officer.

of 1959.]

(Sections 5—7)

5. (1) The Chairman shall receive such monthly salary and allowances as may be fixed by the Provincial Government and be subject to such conditions of service as may be prescribed and shall perform such duties as are assigned to him under this Ordinance or rules framed under it.

Remuneration and condition of service of Chairman and Members.

(2) Every Member shall be entitled to receive such fee or allowance for attending the meetings of the Authority, as may be prescribed.

6. The Chairman or any Member may at any time resign, provided that his resignation shall not take effect until accepted by the Provincial Government.

Resignation of Chairman, Member.

7. (1) A person shall be disqualified for being appointed Chairman or Member of the Authority; if he—

Removal of Chairman or Member.

(a) has been declared insolvent; or

(b) has been declared to be disqualified for employment in, or has been dismissed from the service of Pakistan, or has been convicted of an offence involving moral turpitude; or

(c) has knowingly acquired or continued to hold, without the permission in writing of the Provincial Government, directly or indirectly or through a partner any share or interest in any contract or employment with or by or on behalf of the Authority, or in any land or property which, in his knowledge, is likely to benefit him or has benefited him as a result of the operation of the Authority,

and the Provincial Government may, by notification, remove a Chairman or any Member for any of the above disqualifications, or if he refuses, or fails to discharge, or becomes, in the opinion of the Provincial Government, incapable of discharging his responsibilities under this Ordinance.

(2) No person shall be disqualified as aforesaid, or be deemed to have any share or interest in such contract or employment as aforesaid, by reason only of having a share or interest in—

(i) any sale, purchase, lease, or exchange of land or any agreement for the same; or

(ii) any agreement for the loan of money, or any security for the payment of money only; or

(iii) any newspapers in which any advertisement relating to the affairs of the Authority is inserted; or

(Sections 8—12.)

- (iv) the occasional sale to the Authority, to a value not exceeding two thousand rupees in any one financial year, of any article in which he trades;

or by reason only of his having a share or interest, otherwise than as director, secretary, manager or other salaried officer, in any incorporated company which has any share or interest in any contract or employment with, by, or on behalf of, the Authority.

Filling of
casual vacan-
cies.

8. If the Chairman or any Member is granted leave or any one of them dies, resigns, or is removed from office, the Provincial Government may appoint a Chairman, or Member, as the case may be, for the period of absence or remainder of the term, as the case may be.

Conduct of Business.

Meetings of
the Authority

9. (1) The Authority shall meet at such time and place and in such manner, as may be prescribed:

Provided that until rules are made in this behalf such meetings shall be convened by the Chairman.

(2) The Chairman, or in his absence, a Member authorised by the Chairman, and two other Members shall be present to constitute a quorum at a meeting of the Authority.

Temporary
Association
of Members.

10. (1) The Authority may associate with itself any person whose assistance or advice it may desire in carrying out any of the provisions of the Ordinance or rules thereunder.

(2) Any person associated with itself by the Authority for any purpose shall have a right to take part in the discussions of the Authority but shall exercise no vote. An associate Member may be given such fee or allowance, as may be prescribed.

Indemnity.

11. No act done or proceeding taken under this Ordinance shall be questioned on the ground merely of—

(a) the existence of any vacancy in, or any defect in the establishment of the Authority; or

(b) any omission, defect or irregularity not affecting the merits of the case.

Power to
make and
perform
contracts.

12. The Authority may enter into and perform all such contracts as they may consider necessary or expedient for carrying out any of the purposes of this Ordinance.

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(Sections 13, 14.)

13. (1) Every such contract shall be made on behalf of the Authority by the Chairman:

Execution of contracts and approval of estimates.

Provided that—

(a) a contract involving an expenditure exceeding one thousand rupees and not exceeding two lakhs of rupees shall not be made by the Chairman without the previous sanction of the Authority; and

(b) a contract involving an expenditure exceeding two lakhs of rupees shall not be made by the Chairman without the previous sanction of the Authority and the Provincial Government.

(2) Every estimate for the expenditure of any sum for carrying out any of the purposes of this Ordinance, shall be subject to the approval of the authority who is empowered by sub-section (1) to make or sanction the making of a contract involving the expenditure of a like sum.

(3) Sub-sections (1) and (2) shall apply to every variation or abandonment of a contract or estimate, as well as to an original contract or estimate.

14. (1) Every contract made by the Chairman on behalf of the Authority shall be entered into in such manner and form as would bind the Chairman if such contract were made on his own behalf, except that the common seal of the Authority shall be used; and every such contract may in the like manner and form be varied or discharged.

Further provisions as to execution of contracts, and provisions as to seal of authority.

(2) Every contract for the execution of any work or the supply of any materials or goods shall be in writing and shall be sealed.

(3) The common seal of the Authority shall remain in the custody of the Secretary to the Authority and shall not be affixed to any contract or other instrument except in the presence of a Member (other than the Chairman), who shall attach his signature to the contract or instrument in token that the same was sealed in his presence.

(4) The signature of the said Member shall be in addition to the signature of any witness to the execution of such contract or instrument.

(5) A contract not executed as provided in this section shall not be binding on the Authority.

15. (1) At least seven days before the Chairman enters into any contract for the execution of any work or the supply of any materials or goods which will involve an expenditure not exceeding one thousand rupees, or at least fourteen days

Tenders.

(Sections 16, 17.)

before entering into such contract involving an expenditure exceeding one thousand rupees, he shall give notice, by advertisement in local newspapers inviting tenders for the same.

(2) In every such case the Chairman shall place before the Authority the specifications, conditions and estimates and all the tenders received, specifying the particular tender (if any), which he proposes to accept.

(3) In every case in which the acceptance of a tender would involve an expenditure exceeding two lakhs of rupees, the Authority shall submit to the Provincial Government the specifications, conditions and estimates, and all the tenders received, specifying the particular tender (if any), the acceptance of which they propose to sanction.

(4) Neither the Authority, nor the Provincial Government shall be bound to sanction the acceptance of any tender which has been made; but the Authority within the pecuniary limits of their powers, as prescribed in sub-section (1) of section 13, or the Provincial Government may sanction the acceptance of any of such tenders which appears to them, upon a view of all the circumstances, to be the most advantageous, or may direct the rejection of all the tenders submitted to them.

Security for
performance
of contract.

16. The Chairman shall take sufficient security for the due performance of every contract involving an expenditure exceeding one thousand rupees.

Supply of
documents
and informa-
tion to the
Government.

17. (1) The Chairman shall forward to the Provincial Government a copy of the minutes of the proceedings of each meeting of the Authority, within ten days from the date on which the minutes of the proceedings of such meeting were signed.

(2) If the Provincial Government so directs in any case, the Chairman shall forward to it a copy of all papers which were laid before the Authority for consideration at any meeting.

(3) The Provincial Government may require the Chairman to furnish it with—

(a) any return, statement, estimate, statistics or other information regarding any matter under the control of the Authority, or

(b) a report on any such matter, or

(c) a copy of any document in the charge of the Chairman.

(4) The Provincial Government, at any time, cause an investigation to be made by an officer appointed in this behalf into the affairs of the Authority.

of 1959.]

(Sections 18, 19.)

CHAPTER III.

Establishment.

18. Subject to the provisions of this Ordinance, the Authority may determine from time to time what officers and other employees are necessary for the performance of its functions, may also engage such experts and consultants as it may consider necessary for the said purpose, and may fix the salaries, fees and allowances to be paid to such officers, employees, experts and consultants:

Employment
of Authority.

Provided that no post carrying a monthly salary or a maximum monthly salary of rupees five hundred or more shall be created without the prior approval of the Provincial Government:

Provided further that the Authority shall be liable to pay such contribution for leave allowance and pension of any servant of the Provincial Government employed as Chairman, a Member or as an employee of the Authority, as may be required by the condition of his service under the Provincial Government to be paid by him or on his behalf.

19. (1) Subject to any rules which may be prescribed by the Provincial Government in this behalf, the power of making appointments and promotions to posts in the service of the Authority, of granting leave to officers and other employees, of taking disciplinary action against such officers and employees, shall be exercised by the undermentioned authorities—

Appoint-
ment,
punishment
and appeal.

- (a) in the case of posts, the monthly salary or the maximum monthly salary of which does not exceed five hundred rupees, and officers and employees holding such posts—by the Chairman;
- (b) in the case of posts, the monthly salary or the maximum monthly salary of which exceeds five hundred rupees but does not exceed one thousand rupees, and officers and employees holding such posts—by the Authority; and
- (c) in other cases—by the Authority subject to the approval of the Provincial Government:

Provided that a servant of the Provincial Government or of a local authority whose services have been lent to the Authority shall not be so punished except by an Authority which would have been competent to inflict such punishment if his services had not been so lent, and the Chairman or the Authority, as the case may be, shall be entitled only to make a recommendation in that behalf to such Authority.

(Sections 20—22.)

(2) Against any order under sub-section (1) imposing any punishment on him, an officer or an employee of the Authority may appeal to the—

(a) Authority, if the order was passed by the Chairman; and

(b) Provincial Government, if the order was passed by the Authority.

(3) Upon hearing an appeal under clause (a) of sub-section (2), the Authority may enhance the punishment, but an appeal shall lie to the Provincial Government against such enhancement.

Delegation
of powers to
Chairman,
etc.

20. The Authority may, by general or special order, delegate to Chairman, a Member or an Officer of the Authority, any of its powers, duties or functions under this Ordinance subject to such conditions as it may think fit to impose.

Immunity of
the Authority
and its
employees.

21. (1) The Chairman, Members, Officers and other employees of the Authority shall, when acting or purporting to act in pursuance of any of the provisions of this Ordinance, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860.

Act XI
of 1860

(2) No suit, prosecution or other legal proceedings shall lie against the Authority, the Chairman, Members or Officers and other employees of the Authority in respect of anything done or intended to be done, in good faith, under this Ordinance.

CHAPTER IV.

Powers and Duties of the Authority.

Master Plan.

Preparation
of Master
Plan by the
Authority.

22. (1) The Authority shall, as soon as feasible, but not more than two years after the provisions of this Ordinance come into force, prepare and submit to the Provincial Government for approval a Master Plan for the Municipality and the areas in its vicinity indicating the manner in which it proposes that land should be used (whether by carrying out thereon of development or otherwise) and the stages by which any such development should be carried out.

(2) The Master Plan shall include such maps and such descriptive matter as may be necessary to illustrate the proposals aforesaid with such degree of particularity as may be appropriate between different parts of the town, and any

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(Sections 23, 24.)

such plan may, in particular, define the sites of proposed roads, public and other buildings and works, or fields, parks, pleasure-grounds and other open spaces or allocate areas of land for use for agricultural, residential, industrial or other purposes of any class specified in the Master Plan.

(3) The Provincial Government shall, within one month from the date of receipt of the Master Plan from the Authority, publish the same in the *Official Gazette*.

(4) Any person objecting to the Plan or part thereof shall file objection with the Provincial Government within thirty days from the date of the publication of the Master Plan.

(5) The Provincial Government after considering the objections that may be filed, shall approve the Master Plan within three months from the date of publication under sub-section (3), either with or without modification.

23. (1) When the Provincial Government approves the Master Plan submitted under section 22 it shall announce the fact by notification and the publication of such notification shall be conclusive evidence that the Master Plan has been duly made and approved, and thereafter it shall be unlawful for any person to use any land for any purposes other than that laid down in the Master Plan, unless he has been permitted to do so under section 24.

Publication
of Master
Plan.

(2) The Authority may, from time to time, with the approval of the Provincial Government and the Provincial Government may, at any time, amend or alter any specific provision of the Master Plan. Any such amendment or alteration shall be published in the *Official Gazette*.

(3) All future developments and construction, both public and private, shall be in conformity with the Master Plan or with the amendment thereof.

(4) The Master Plan, or an amendment thereof, shall neither before nor after it has been approved, be questioned in any legal proceedings whatsoever and shall become operative on the day it is published in the *Official Gazette* under sub-section (1) or sub-section (2), as the case may be.

24. (1) If any person desires to use any land for any purpose other than that laid down in the Master Plan approved under section 23, he may apply in writing to the Chairman for permission so to do.

Permission
for use of
land contrary
to the Master
Plan.

(2) If the Chairman refuses permission to any person, such person may, within sixty days of the Chairman's refusal, appeal to the Authority against such refusal.

(3) The decision of the Authority on any appeal under sub-section (2) shall be final.

(4) No compensation shall be payable to any person owing to the restricted use to which his land may be put under section 23.

Authorised
Officer.

25. After publication of the Master Plan, the Chairman or any Officer of the Authority, from such date as the Provincial Government may, by notification, declare, shall be deemed to be the only authorised Officer, within the meaning of clause (a) of section 2 of the East Bengal Building Construction Act, 1952, which Act shall be deemed to be modified to that extent, so far as it relates to the area within the jurisdiction of the Authority. E. B. Act II of 1953.

Controlled
Area.

26. The Authority may, by notification, declare any area included in the Master Plan to be a controlled area for the purpose of this Ordinance, and may issue in respect of such area such directions as it considers fit and appropriate, and may do all things as may be necessary for the prevention or correction of substandard or haphazard growth of colonies, and buildings and operations in such area.

Declaration
of use area
and location
thereof.

27. (1) The Authority may, after giving due notice in writing to the persons affected thereby and after giving such persons an opportunity of being heard, declare any area included in the Master Plan to be a use area.

(2) If within two years after such declaration has been made the area or any part thereof remains, in the opinion of the Authority, unreasonably unutilised, then upon such determination such area or part thereof shall be valued by the Authority and, after such valuation, shall be taxed by the Authority annually at the rate of three per cent. of the value thereof until such time as an improvement satisfactory to the Authority shall have been completed.

(3) The tax revenues accruing under this section shall belong to, and may be utilised for the general purposes of, the Authority.

Outline Programme and Improvement Schemes.

Preparation
of Develop-
ment
Programmes.

28. (1) After publication of the Master Plan under sub-section (3) of section 22, the Authority shall prepare, and submit to the Provincial Government Five year Programmes of development and improvement of the areas covered by the Master Plan, on the basis of the said Plan, listing the schemes of development and improvement, including works of water supply and sewerage in their approximate order of execution and with approximate cost of each.

of 1959.]

(Sections 29, 30.)

(2) The Provincial Government shall, within six months of its submission, either approve or disapprove the Programme referred to in sub-section (1), or approve it with such additions or modifications as, in consultation with the Authority, it deems fit to make.

29. (1) After approval of the Programmes by the Provincial Government, with or without any modification, the Authority shall prepare and submit to the Provincial Government specific schemes on the basis of the Programme, including any other scheme or schemes which the Provincial Government may direct the Authority to prepare, and all such schemes shall contain plans for the proposed development, including those for housing, if any, with estimates of cost and proposed methods of financing. Any such scheme involving ejection of persons should also indicate the manner of resettlement or re-housing of affected persons :

Preparation and submission of specific schemes to Provincial Government.

Provided that the Authority may, without need for further approval by the Provincial Government, under intimation to the Provincial Government, undertake execution of any scheme already approved by it in the Programmes, the total estimated cost of which does not exceed rupees one lakh and specific provision for which exists in the annual estimate for income and expenditure of the Authority.

(2) The Provincial Government may sanction, with or without any modification, or may refuse to sanction, or may return for reconsideration, any specific scheme submitted to it under sub-section (1), or may call for such further details or information about the scheme, or may direct such further examination of the scheme, as it may consider necessary.

(3) A Scheme framed and sanctioned under this Ordinance may be amended or modified by the Authority at any time but if a material change is made in the scheme, previous sanction of the Provincial Government shall be obtained.

Explanation—An increase in the cost of the scheme by more than ten per cent. of the sanctioned cost shall be deemed to be a material change for the purpose of this section.

30. An improvement or development scheme may provide for all or any of the following matters, namely :—

Matters to be provided for in improvement scheme.

(a) the acquisition by the Authority of any land, in the area comprised in the scheme, which will, in

their opinion, be required for the execution of the scheme or be affected by the execution of the scheme ;

- (b) the laying out or re-laying out of the land in the said area ;
- (c) such demolition, alteration or reconstruction of buildings situated on land which it is proposed to acquire in the said area, as the Authority may think necessary ;
- (d) the construction of any buildings which the Authority may consider it necessary to erect for any purpose other than sale ;
- (e) the laying out or alteration of streets (including bridges, causeways and culverts) ;
- (f) the levelling, paving, metalling, flagging, channeling, sewerage and draining of the said streets and the provision therein of water, lighting and other sanitary conveniences ordinarily provided in a Municipality ;
- (g) the raising, lowering or levelling of any land in the area comprised in the scheme ;
- (h) the formation, retention or enlargement of open spaces ;
- (i) the augmentation of the present water-supply, or any other scheme for the improvement of the water-supply ;
- (j) the making of a drainage and sewerage scheme including outfall works ; and
- (k) any other matters consistent with this Ordinance which the Authority may think fit.

Discontinu-
ance of use
of land and
alteration or
removal of
building.

31. Whenever it appears to the Authority that it is expedient in the interests of the public and for the proper planning of the area included in any improvement or development scheme—

- (a) that any use of land should be discontinued, or that any conditions should be imposed on the continuance thereof ; or
- (b) that any building or works or factory should be altered or removed,

the Authority may pass a resolution to the effect and such resolution shall form part of the particulars of the scheme under clause (c) of sub-section (1) of section 33.

of 1959.]

(Sections 32—35.)

32. The Authority may frame schemes (hereinafter called the re-housing schemes) for the construction, maintenance and management of such and so many dwellings and shops as they may consider ought to be provided for persons of the poorer and working classes who are displaced or likely to be displaced by the execution of any improvement or development scheme sanctioned under this Ordinance.

Re-housing of persons displaced by improvement schemes.

33. (1) When any improvement or development scheme or re-housing scheme has been framed, for any area within the Municipality, the Authority shall prepare a notice, stating—

Preparation, publication and transmission of notice as to improvement scheme and supply of documents to applicants.

- (a) the fact that the scheme has been framed,
- (b) the boundries of the area comprised in the scheme, and
- (c) the place at which particulars of the scheme, a map of the area comprised in the scheme, and a statement of the land which it is proposed to acquire and of the land in regard to which it is proposed to recover a betterment fee, may be seen at reasonable hours.

(2) The authority shall—

- (i) cause the said notice to be published weekly for three consecutive weeks in the *Official Gazette* and in local newspapers, with a statement of the period within which objections will be received, and
- (ii) send a copy of the notice to the Chairman of the Municipality.

(3) The Chairman shall cause copies of all documents referred to in clause (c) of sub-section (1) to be delivered to any applicant on payment of such fee as may be prescribed.

34. The Chairman of the Municipality to whom a copy of the notice has been sent under clause (ii) of sub-section (2) of section 33 shall, within a period of thirty days from the receipt of the said copy, forward to the Authority any representation which the Municipality may think fit to make with regard to the scheme.

Transmission to Board of representation by Municipality.

35. As soon as possible after the publication of a notice under section 33, the Chairman shall send a statement containing the particulars of the land which it is proposed to acquire in executing the scheme or in regard to which it is proposed to recover a betterment fee, to the

Furnishing list of persons and copy of, or extract from assessment list.

(Sections 36—38.)

Chairman of the Municipality, in which any portion of the area comprised in the scheme is situated, with a request to furnish—

- (i) a list of the names and addresses of the persons whose lands are likely to be acquired for, or affected by, the execution of the scheme, and
- (ii) a copy of or extract from the municipal assessment list, within fourteen days of the receipt of such request and on payment of prescribed fee.

Abandon-
ment of im-
provement
scheme, or
application
to Govern-
ment to
sanction it.

36. (1) After the expiry of the periods respectively prescribed under clause (i) of sub-section (2) of section 33 and by section 34 in respect of any improvement scheme or re-housing scheme, the Authority shall consider any objection, representation and statement of dissent received thereunder and after hearing all persons making any such objection, representation or dissent who may desire to be heard, the Authority may either abandon the scheme or apply to the Provincial Government for sanction to the scheme with such modification (if any), as the Authority may consider necessary.

(2) Every application submitted under sub-section (1) shall be accompanied by—

- (a) a description of, and full particulars relating to the scheme, and complete plans and estimates of the cost of executing the scheme ;
- (b) a statement of the reasons for any modifications made in the scheme as originally framed ;
- (c) a statement of objections (if any), received under section 33 ;
- (d) any representation received under section 34 ;
- (e) a statement of the arrangements made or proposed by the Authority for the re-housing of persons of the poorer and working classes who are likely to be displaced by the execution of the schemes.

Combination
of improve-
ment
scheme.

37. Any number of areas in respect of which improvement, development or re-housing schemes have been, or are proposed to be framed, may at any time, be included in one combined scheme.

Width of
streets.

38. No street laid out or altered by the Authority shall be of less width than—

- (a) forty feet, if the street be intended for vehicular traffic, or
- (b) twenty feet, if the street be intended for pedestrian traffic only:

(Section 39.)

Provided as follows :—

- (i) the width of an existing street need not be increased to the minimum required by this section, if the Authority consider it impracticable to do so ; and
- (ii) nothing in this section shall be deemed to prevent the Authority from laying out service passages for sanitary purposes of any width less than twenty feet.

39. (1) Whenever any building, or any street, square or other land, or any part thereof, which—

- (a) is situated in the Municipality and is vested in it, or
- (b) is situated in any part of the District Board or any Union Board in which this Ordinance is for the time being in force, and is vested in that District or Union Board,

Transfer to authority for purposes of improvement scheme of building or land vested in a Municipality, Union Board or District Board.

is within the area of any improvement or development scheme or re-housing scheme and is required for the purpose of such scheme, the Authority shall give notice accordingly to the Chairman of the Municipality or of the District Board, or to the President of the Union Board, as the case may be, and such building, street, square, other land or part, shall thereupon vest in the Authority.

(2) Where any street or square, or any part thereof vests in the Authority under sub-section (1), no compensation shall be payable by the Authority to the Municipality, the District or the Union Board, in respect of such street, square or part.

(3) Where any land, not being street or square, vests in the Authority under sub-section (1), compensation in respect of such land shall not be payable by the Authority except to the District or the Union Board, as the case may be.

(4) Where any building vests in the Authority under sub-section (1), compensation for such building shall be payable by the Authority to the Municipality, the District or the Union Board, as the case may be.

(5) If any question or dispute arises—

- (a) whether compensation is payable under any of the sub-sections (3) and (4), or

(Sections 40, 41.)

- (b) as to the amount of the compensation paid or proposed to be paid under sub-section (3) or sub-section (4), or
- (c) whether any building or street, or square or other land, or any part thereof is required for the purpose of the scheme,

the matter shall be referred to the Provincial Government whose decision shall be final.

Explanation—For the purposes of this section, “Building” means only the structure, and does not include any land other than the land on which it actually stands; and “Compensation” means a sum equal to the market value of the land or building on the date of the service of the notice under sub-section (1).

Taking over
of laid out
or altered
streets by
Municipality.

40. Whenever the Authority are satisfied—

- (a) that any street laid out or altered by the Authority has been duly levelled, paved, metalled, flagged, channelled, sewerred and drained in the manner provided in the plans sanctioned by the Provincial Government under sub-section (2) of section 29;
- (b) that such lamps, lamp-posts and other apparatus for the lighting of such street as ought to be provided by the Authority have been so provided, and
- (c) that water and other sanitary conveniences ordinarily provided in a Municipality have been duly provided in such street,

the Authority shall pass a resolution to that effect and shall call upon the Municipality to take over such street as and from the date fixed by such resolution for the purpose.

Transfer of
any scheme
or property
of Provincial
Government
or local
authority to
the Authority.

41. (1) After the provisions of this Ordinance is brought into force under sub-section (3) of section 1, the Provincial Government may, upon such terms and conditions as may be laid down, transfer to the Authority any scheme sanctioned or undertaken by the Provincial Government or by any local authority and may also place at the disposal of the Authority any properties, movable, or immovable connected with or ancillary or appurtenant to any such scheme and any scheme so transferred shall be deemed to be a scheme sanctioned by the Provincial Government.

(2) It shall be lawful for the Authority to execute and maintain all works and carry out all unfinished works and operations required for the execution of any scheme transferred under sub-section (1).

(Sections 42, 43.)

(3) The Provincial Government may, upon such terms and conditions as may be laid down, place at the disposal of the Authority any property or fund held by the Provincial Government, or any local authority or any other body, or permit the Authority to levy and retain duties which, immediately before establishment of the Authority, were leviable by the Provincial Government, local authority or local body, and thereupon the Authority shall hold such property or fund and levy such duties in accordance with such terms and conditions.

Survey.

42. The Authority may—

- (a) cause a survey of land to be made, whenever they consider that a survey is necessary or expedient for carrying out the purposes of this Ordinance, or
- (b) contribute towards the cost of any survey made by any other local authority.

Power to
make survey
or contribute
towards their
cost.

Power of Entry.

43. (1) The Chairman or any person either generally or specially authorised by the Chairman in this behalf may, with or without assistants or workmen, enter into or upon any land, in order—

Power of
Entry.

- (a) to make any inspection, survey, measurement valuation or inquiry,
- (b) to take levels,
- (c) to dig or bore into the sub-soil,
- (d) to set out boundaries and intended lines of work,
- (e) to mark such levels, boundaries and lines by placing marks, and cutting trenches, or
- (f) to do any other thing,

whenever it is necessary to do so for any of the purposes of this Ordinance or any rule made or scheme sanctioned hereunder or any scheme which the Authority intend to frame hereunder:

Provided as follows:

- (a) no such entry shall be made between sunset and sunrise;
- (b) no dwelling-house, and no public building or hut which is used as a dwelling-place, shall be so

(Section 44.)

entered, unless with the consent of the occupier thereof, without giving the said occupier at least twenty-four hours' previous written notice of the intention to make such entry;

- (c) sufficient notice shall in every instance be given, even when any premises may otherwise be entered without notice, to enable the inmates of any apartment appropriated to females to remove to some part of the premises where their privacy need not be disturbed;
- (d) due regard shall always be had, so far as may be compatible with the exigencies of the purpose, for which the entry is made, to the social and religious usages of the occupants of the premises entered.

(2) Whenever the Chairman or a person authorised under sub-section (1) enters into or upon any land in pursuance of that sub-section, he shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the Authority whose decision shall be final.

CHAPTER V.

Finance.

Chittagong
Develop-
ment Fund.

44. (1) There shall be a fund to be known as the "Chittagong Development Authority Fund" (hereinafter referred to as the Fund) vested in the Authority which shall be utilised by the Authority to meet charges in connection with its functions under this Ordinance including the payment of salaries and other remuneration to the Chairman, Members and Officers and of the other employees of the Authority.

(2) The said Fund shall consist of—

- (a) contribution of the Municipality under section 45;
- (b) grant made by Government;
- (c) loans obtained from Government;
- (d) loans obtained by the Authority with special or general sanction of the Provincial Government under section 46;

of 1959.]

(Sections 45—47.)

- (e) foreign aid and loan obtained from the Development Loan Fund, with the sanction of, and on such terms and condition as may be approved by Government; and
- (f) proceeds of the betterment fee levied under section 77; water rate, conservancy rate or any other rate levied by the Authority under the provisions of this Ordinance, with the sanction of the Provincial Government;
- (g) all other sums received by the Authority.

45. (1) The Municipality shall pay from the Municipal Funds to the Authority on the first day of each quarter, so long as the Authority continue to exist, a sum equivalent to one-half per cent. per quarter on the annual value determined under Chapter V of the Bengal Municipal Act, 1932, as it stood on the first day of the last preceding quarter: Contribution from Municipal Funds.

Ben. Act.
XV of
1932.

Provided that if this Ordinance is directed to come into force during a quarter, the amount of the first of such payments shall bear such proportion to the sum payable hereunder as the unexpired portion of that quarter bears to the whole quarter.

(2) The payments prescribed by sub-section (1) shall be made in priority to all other payments due from the Municipality, except those referred to in section 107 of the Bengal Municipal Act, 1932.

Ben. Act
XV of
1932.

Loans.

46. The Authority may from time to time borrow, at such rate of interest, and for such period, and upon such terms, as to the time and method of repayment and otherwise, as the Provincial Government may approve, any sum necessary for the purpose of— Power of Authority to borrow money.

- (a) meeting expenditure debitable to the capital account under section 59, or
- (b) repaying any loan previously taken under this Ordinance.

47. The Authority shall be deemed to be a local authority under the Local Authorities Loans Act, 1914, for the purpose of borrowing money under the said Act, and the making and execution of any scheme under this Ordinance shall be deemed to be a work which such Authority is legally authorised to carry out. Authority to be deemed to be a local Authority.

IX of
1914.

(Sections 48—53.)

Application of money borrowed. 48. When any sum of money has been borrowed under section 46 for the purpose of meeting particular expenditure or repaying a particular loan, no portion thereof shall be applied to any other purpose without the previous sanction of the Provincial Government.

Limited liability. 49. The liability of the Provincial Government to the creditors of the Authority shall be limited to the extent of grants made by the Provincial Government and the loan raised by the Authority with the sanction of the Provincial Government.

Priority of payments for interest and repayment of loans. 50. All payments due from the Authority for interest on, or the repayment of loans, shall be made in priority to all other payments due from the authority.

Budget Estimate.

Estimate of income and expenditure. 51. (1) The Authority shall, before three months of the expiry of the financial year, submit to the Provincial Government, for approval, a statement of estimated receipts and expenditure in respect of the next financial year:

Provided that the first estimate of receipts and expenditure of the Authority shall be prepared as soon as may be expedient after the establishment of the Authority.

(2) Every estimate prepared under sub-section (1) shall differentiate capital and revenue funds and shall be prepared in such form and shall contain such details as the Provincial Government may from time to time direct.

Approval of Provincial Government to such estimates. (3) On its receipt the budget estimate will be examined by the Provincial Government who shall approve it with or without modification and communicate its approval to the Authority before the commencement of the next financial year.

Supplementary estimate. 52. The Authority may, at any time during the financial year for which an estimate has been sanctioned, cause a supplementary estimate to be prepared and submitted to the Provincial Government.

Adherence to estimate and maintenance of closing balance. 53. (1) No sums shall be expended by or on behalf of the Authority unless the expenditure of the same is covered by a current budget grant or can be met by reappropriation or by drawing on the closing balance.

(2) The closing balance shall not be reduced below such sums as may be fixed by the Provincial Government in this behalf, without the previous sanction of the Provincial Government.

(Sections 54—56.)

(3) The following items shall be excepted from the provisions of sub-sections (1) and (2), namely—

- (a) repayments of moneys belonging to contractors or other persons and held in deposit, and of moneys collected by, or credited to, the Authority by mistake;
- (b) payments due under a decree or order of a Court passed against the Authority or, against the Chairman, *ex-officio*;
- (c) sums payable under a compromise of any suit or other legal proceedings;
- (d) sums payable under this Ordinance by way of compensation;
- (e) payments required to meet some pressing emergency; and
- (f) gratuitous payments up to a maximum of five hundred rupees.

(4) Whenever any sum exceeding five thousand rupees is expended under clause (e) of sub-section (3) or whenever any sum is expended under clause (f) of that sub-section, the Chairman shall forthwith report the circumstances to the Provincial Government, and shall at the same time explain how the Authority propose to cover the expenditure.

54. (1) All moneys at the credit of the Authority shall be kept in the State Bank of Pakistan, or any other Bank approved by the Provincial Government in this behalf. Receipt of money deposit and in Bank.

(2) All moneys payable to the Authority shall be received by the Chairman and shall forthwith be paid into the aforesaid Bank to the credit of any account which shall be styled "The Account of the Chittagong Development Authority".

55. (1) No payment shall be made by the Bank out of the account referred to in section 54 except upon a cheque. Payment by cheques.

(2) Payment of any sum due by the Authority exceeding one hundred rupees in amount shall be made by means of a cheque and not in any other manner.

56. All cheques referred to in section 55 must be signed by the Chairman and the Secretary of the Authority, or in absence of either the Chairman or the Secretary, by the Secretary or Chairman, and a Member. Signature of cheques.

(Sections 57—59.)

Accounts.

Management of accounts. 57. The Authority shall maintain complete and accurate books of accounts in such form as may be prescribed. There shall be kept a capital account and a revenue account. The capital account shall show separately all expenditure incurred by the Authority on each improvement, development and re-housing scheme.

Credit to capital account.

58. There shall be credited to the capital account—

- (a) such proportion of grants by Government under clause (b) of sub-section (2) of section 44, as may be fixed by the Provincial Government from time to time;
- (b) loans obtained from Government;
- (c) loans obtained by the Authority with special or general sanction of the Provincial Government;
- (d) foreign aid and loans obtained from the Development Loan Fund;
- (e) the proceeds of the sale of any land vested in the Authority which was purchased out of any loan;
- (f) the proceeds of the sale of any movable property (including securities for money invested from the capital account) belonging to the Authority;
- (g) any other sum which the Provincial Government may direct to be credited to the capital account.

Application of capital account.

59. The moneys credited to the capital account shall be held by the Authority in trust, and shall be applied to—

- (a) meeting all costs of framing and executing improvement, development and re-housing schemes;
- (b) meeting the cost of acquiring land for carrying out any of the purposes of this Ordinance;
- (c) meeting the cost of constructing buildings required for carrying out any of the purposes of this Ordinance;
- (d) the repayment of loans from money borrowed in pursuance of clauses (c), (d) and (e) of sub-section (2) of section 44;

of 1959.]

(Sections 60, 61.)

- (e) making, or contributing towards the cost of making, surveys in pursuance of section 42;
- (f) meeting such proportion of the cost of management as the Authority may, with the sanction of the Provincial Government, fix in this behalf; and
- (g) temporarily making good the deficit (if any) in the revenue account at the end of any financial year.

60. There shall be credited to the revenue account— Credit to
revenue
account.

- (a) contribution of the Municipality under section 45;
- (b) such proportion of grants made by Government under clause (b) of sub-section (2) of section 44, as may be fixed by the Provincial Government from time to time;
- (c) proceeds of any improvement or betterment levy, water rate, conservancy rate or any other rate levied by the Authority with the sanction of Provincial Government under clause (f) of sub-section (2) of section 44;
- (d) all interest received by the Authority;
- (e) all damages received by the Authority;
- (f) all annually recurring sums received from the Government in aid of the funds of the Authority;
- (g) all premia received by the Authority in connection with leases;
- (h) all rents of land and buildings vested in the Authority; and
- (i) any other sums which the Provincial Government may direct to be credited to the revenue account.

61. The moneys credited to the revenue account shall be held by the Authority in trust, and shall be applied to— Application
of revenue
account.

- (a) meeting all charges for interest due on account of any loan taken in pursuance of clauses (c), (d) or (e) of sub-section (2) of section 44 and all other charges incurred in connection with such loans;

(Sections 61—63.)

- (b) paying all sums due from the Authority in respect of rates and taxes imposed under the Bengal Municipal Act, 1932,⁴ upon land vested in the Authority; Ben. Act
XV of
1932.
- (c) paying the cost (if any) of maintaining a separate Establishment for the collection of the rents and other proceeds of land vested in the Authority;
- (d) paying all sums which the Provincial Government may direct to be paid to an auditor under section 69;
- (e) making payments in pursuance of section 94 for compensation or for expenses of maintenance of works; and
- (f) paying the cost of management.

Explanation—The expression “cost of management” means—

- (a) the salary and allowances of the Chairman and fees of the Members of the Authority;
- (b) all fees and allowances paid for attendance at meeting;
- (c) the salaries, fees and allowances of, and the contributions paid under the proviso to section 18 in respect of employees of the Authority appointed under that section; except employees who are paid by the day or whose pay is charged to temporary work; and
- (d) all office expenses incurred by the Authority.

Explanation—“Office expenses” means expenses incurred for carrying on office work, and includes the rent of offices, the provision of furniture therefor, the charges for printing and stationery and any other incidental expenses necessary for the efficient working of an office.

Advances
from revenue
account to
capital
account.

62. (1) Notwithstanding anything contained in section 61, the Authority may advance any sum standing at the credit of the revenue account for the purpose of meeting capital expenditure.

(2) Every such advance shall be refunded to the revenue account as soon as may be practicable.

Advances
from capital
account to
revenue
account.

63. (1) Any deficit in the revenue account at the end of any financial year may be made good by an advance from the capital account.

(2) Every such advance shall be refunded to the capital account in the following financial year.

of 1959.]

(Sections 64—70.)

64. (1) The Authority shall submit to the Provincial Government at the end of each half of every financial year, an abstract of the accounts of their receipts and expenditures. Submission of abstract of accounts.

65. (1) The Authority shall submit to the Provincial Government, as soon as possible but within three months after the end of every financial year, a report on the conduct of its affairs for that year. Submission of yearly reports and returns.

(2) The Provincial Government may require the Authority to furnish—

(a) any return, statement, estimate, statistics or other information regarding any matter under the control of the Authority, or

(b) a report on any such matter, or

(c) a copy of any document in the charge of the Authority;

and the Authority shall comply with every such requisition.

Ben. Act
III of
1913.

66. The Authority shall have power to realise its dues from any person under the Bengal Public Demands Recovery Act, 1913, as a public demand. Recovery of dues of Authority.

67. The accounts of the Authority shall, once in every financial year, be examined and audited by such Auditor as the Provincial Government may appoint in this behalf. Annual audit of accounts.

68. The Auditor so appointed may,—

Power of Auditors.

(a) by written summons, require the production before him of any document which he may consider necessary for the proper conduct of the audit;

(b) by written summons, require any person having the custody or control of, or being accountable for, any such document to appear in person before him; and

(c) require any person so appearing before him to make and sign a declaration with respect to any such document to answer any questions, or to prepare and submit any statement.

69. The Authority shall pay to the said Auditor such remuneration as the Provincial Government may direct. Remuneration of Auditor.

70. The Auditor shall—

Auditor's report.

(a) report to the Authority any material impropriety or irregularity which he may observe in the expenditure, or in the recovery of moneys due to the Authority, or in the accounts, and report the same to the Provincial Government;

(Sections 71—76.)

(b) furnish to the Authority such information as they may, from time to time, require concerning the progress on his audit; and

(c) soon after the completion of his audit, forward his report upon the accounts to the Chairman.

Authority to remedy defects. 71. It shall be the duty of the Authority forthwith to remedy any defects or irregularities that may be pointed out by the Auditor.

Auditor's report to be sent to each Member. 72. The Chairman shall furnish each Member a copy of the report mentioned in clause (c) of section 70 and shall bring such report before the Authority for consideration at their next meeting.

Publication and transmission of an abstract of the accounts. 73. As soon as practicable after the receipt of the said report, the Authority shall prepare an abstract of the accounts to which it relates, and shall publish such abstract by notification, and shall send a copy of the abstract to the Chairman of the Municipality and to the Provincial Government.

CHAPTER VI.

Acquisition and Disposal of land.

Land Acquisition.

Acquisition and disposal of land. 74. (1) The Authority, may, for carrying out the purposes of this Ordinance acquire, by purchase, lease, exchange or otherwise, any land or interest in land and dispose of by sale, lease, exchange or otherwise, such land or any interest on such land.

(2) The acquisition of any land or interest in land for the Authority under this section, or for any scheme under this Ordinance, shall be deemed to be an acquisition for a public purpose within the meaning of the Land Acquisition Act of 1894 and the provisions of the said Act shall apply to all such proceedings. Act I of 1894.

Acquisition by agreement. 75. The Authority may enter into an agreement with any person for the acquisition from him by purchase, lease or exchange, of any land or any interest in such land, which the Authority are authorised to acquire.

Abandonment of acquisition. 76. (1) In any case in which land in any area comprised in an improvement, development or re-housing scheme is not required for the execution of the scheme, the owner of the land or any person having an interest therein, may make an application to the Authority, requesting that

of 1959.]

(Sections 77, 78.)

the acquisition of the land should be abandoned in consideration of the payment by him of a sum to be fixed by the Authority in that behalf. The Authority may, after consideration of such application, abandon the proceedings for the acquisition of such land and make it over to the applicant on payment by him sum fixed by the Authority in this behalf.

(2) The Provincial Government may prescribe the manner of disposal of application and determination of the amount of payment and mode thereof, under sub-section (1).

(3) If the Authority enters into any agreement with any owner regarding the partial acquisition of any land which it is authorised to acquire under this Ordinance, such land as is not required for the execution of the scheme may be abandoned from acquisition under sub-section (1).

Betterment Fee.

77. (1) When by the making of any improvement, development or re-housing scheme, any land in the area comprised in the scheme which is not required for the execution thereof will, in the opinion of the Authority, be increased in value, the Authority, in framing the scheme, may, in lieu of providing for the acquisition of land, declare that a betterment fee shall be payable by the owner of the land or any person having an interest therein in respect of the increase in value of the land resulting from the execution of the scheme.

Payment of
betterment
fee.

(2) Such betterment fee shall be an amount equal to one-half of the increase in value of the land resulting from the execution of the scheme, and shall be calculated upon the amount by which the value of the land on the completion of the execution of the scheme estimated as if the land were clear of buildings exceeds the value of the land prior to the execution of the scheme estimated in like manner.

78. (1) When it appears to the Authority that an improvement, development or re-housing scheme is sufficiently advanced to enable the amount of the betterment fee to be determined, the Authority shall, by a resolution passed in this behalf, declare that for the purpose of determining such fee the execution of the scheme shall be deemed to have been completed and shall thereupon give notice in writing to every owner of such land that the Authority propose to assess the amount of the betterment fee payable in respect of such land under section 77.

Assessment
of betterment
fee by Authority.

(Sections 79—81.)

(2) The Authority shall then assess the amount of betterment fee payable by each person concerned after giving such person an opportunity to be heard.

(3) Any person aggrieved by the assessment made by the Authority under sub-section (2) may, within thirty days from the date of such assessment, appeal to the Provincial Government whose decision thereon shall be final.

Authority to
give notice to
persons liable
to payment
of betterment
fee.

79. When the amount of all betterment fees payable in respect of land in the area comprised in the scheme has been determined under section 78, the Authority shall, by a notice in writing to be served on all persons liable to such payment, fix a date by which such payment shall be made; and an interest at the rate of five per cent. per annum upon any amount outstanding shall be payable from that date.

Agreement to
make pay-
ment of bet-
terment fee a
charge on
land.

80. Any person liable to the payment of a betterment fee may, at his option, instead of making a payment thereof to the Authority, execute an agreement with the Authority to leave the said payment outstanding as a charge on his interest in the land, subject to the payment in perpetuity of interest at the rate of five per cent. per annum, the first annual payment of such interests to be made one year from the date referred to in section 79.

CHAPTER VII.

Rules.

Power to
make rules.

81. (1) The Provincial Government may make rules, not inconsistent with the provisions of this Ordinance, for carrying out the purposes of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, the Provincial Government may make rules for all or any of the following matters, namely:—

- (a) a salary, and allowances and conditions of service of Chairman and fees of Members of the Authority under section 5;
- (b) time and place and manner of holding meetings of the Authority under sub-section (1) of section 9;
- (c) fees and allowances of associate members under sub-section (2) of section 10;
- (d) appointment, pension, leave and disciplinary matters of employees of the Authority, under sub-section (1) of section 19;
- (e) rate of fee for copies of documents under sub-section (3) of section 33;

(Sections 82—86.)

- (f) form of accounts under section 57;
- (g) manner of disposal of applications and determination of amount of payment and mode thereof under sub-section (2) of section 76; and
- (h) any other matter in respect of which this Ordinance makes no provision or insufficient provision, and for which provision is, in the opinion of the Provincial Government, necessary, or which is directed to be prescribed.

82. The power to make rules under section 81 is subject to the condition of the rules being made after previous publication, and to the following further conditions, namely:—

Conditions precedent to making of rules.

- (a) a draft of the rules shall be published by notification and in local newspapers;
- (b) such draft shall not be proceeded with until after the expiration of one month from such publication; and
- (c) for one month at least during such period; a printed copy of such draft shall be kept at the Authority office for public inspection:

Provided that the provision of clause (a) may be relaxed by the Provincial Government in case of rules under clauses (a), (b), (c), and (d) of sub-section (2) of section 81.

83. When any rule has been made under section 81, it shall be published by the Provincial Government by notification, and such publication shall be conclusive proof that the rule has been duly made.

Publication of rules.

84. The Authority may, with previous approval of the Provincial Government, make regulations, not inconsistent with the provisions of this Ordinance or any rules thereunder, for carrying out the purpose of this Ordinance.

Power to Authority to make regulations.

85. The Provincial Government may, at any time, by notification, cancel any regulation made by the Authority under section 84.

Government power to cancel regulation.

CHAPTER VIII.

Supplemental Provisions.

86. (1) When any provision of this Ordinance has been brought into force in any area under sub-section (3) of section 1, the Provincial Government may, by notification and in such other manner (if any) as it may consider necessary, extend to such area, if necessary, the Bengal Municipal Act, 1932, or any portion thereof, subject to such restrictions and modifications (if any) as may be specified in such notification.

Power to extend the Bengal Municipal Act, 1932, to areas to which provisions of this Ordinance, have been extended.

(Sections 87—89.)

(2) When the said Bengal Municipal Act, 1932 or any portion thereof, is extended under sub-section (1) to any area, then—

Ben. Act
XV of
1932.

(a) the Bengal Local Self-Government Act, 1885, the Bengal Village Self-Government Act, 1919, as the case may be, or the corresponding portion of such Acts, in force in such area, shall be deemed to be repealed therein, and,

Ben. Act
III of
1885.
Ben. Act
V of
1919.

(b) except as the Provincial Government may otherwise by notification direct, all rules, by-laws, regulations, orders, directions and powers made, issued or conferred under the provisions of the said Municipal Act which have been so extended and in force at the date of such extension, shall apply to the said area, in supersession of all corresponding rules, by-laws, regulations, orders, directions and powers (if any) made, issued, or conferred under any Act mentioned in clause (a).

Publication
of notifica-
tion.

87. (1) Before finally publishing any notification under sub-section (3) of section 1 or sub-section (1) of section 86, the Provincial Government shall publish a draft of the same in the *Official Gazette*.

(2) Any rate-payer or inhabitant of the area affected by such draft, may, if he objects to the draft, submit his objection in writing to the Provincial Government within six weeks from its publication, and the Government shall take such objection into consideration.

Legal Proceedings.

Cognizance
of offences.

88. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, all offences against this Ordinance or any rule made hereunder shall be cognizable by a Magistrate of the first class; and no such Magistrate shall be deemed to be incapable of taking cognizance of any such offence by reason only of being liable to pay any duty imposed by this Ordinance or of his being benefited by the funds to the credit of which any fine imposed by him will be payable.

Limitation of
time for pro-
secution.

89. No person shall be liable to punishment for any offence against this Ordinance or any rule made hereunder unless complaint of such offence is made before a Magistrate of the first class within three months next after the commission of such offence.

of 1959.]

(Sections 90—93.)

90. The Chairman may, subject to the control of the Authority—

Powers of Chairman as to institution, etc., of legal proceedings and obtaining legal advice.

- (a) institute, defend or withdraw from, legal proceedings under this Ordinance or any rule made hereunder;
- (b) compound any offence against this Ordinance or any rule made hereunder which, under any law for the time being in force, may lawfully be compounded;
- (c) admit, compromise or withdraw any claim made under this Ordinance or any rule made hereunder; and
- (d) obtain such legal advice and assistance as he may from time to time think it necessary or expedient to obtain, or as he may be desired by the Authority to obtain, for any of the purposes referred to in the foregoing clauses of this section, or for securing the lawful exercise or discharge of any power or duty vested in or imposed upon the Authority or any employee of the Authority.

91. No suit shall be instituted against the Authority or Chairman, or any member, any employee of the Authority or any person acting under the direction of the Authority, or of the Chairman or of any employee of the Authority in respect of a fact purporting to be done under this Ordinance or any rule made hereunder, until the expiration of one month next after written notice has been delivered or left at the Authority's office or the place of abode of such employee or person, stating the cause of action, the name and place of abode of the intending plaintiff, and the relief which he claims; and the plaint must contain a statement that such notice has been so delivered or left.

Notice of suit against Authority, etc.

Limitation of time for prosecution.

92. On the written application of the Chairman, any Police Officer above the rank of constable shall arrest any person who obstructs any employee of the Authority in the exercise of any of the powers conferred by this Ordinance or any rule made hereunder.

Arrest of offenders.

Evidence.

93. Whenever, under this Ordinance or any rule made hereunder, the doing or the omitting to do anything or the validity of anything depends upon the approval, sanction, consent, concurrence, declaration, opinion or satisfaction of—

Proof, consent, etc. of authority or Chairman or employee of Authority.

- (a) the Authority or the Chairman, or

(Sections 94—96.)

(b) any employee of the Authority,

a written document, signed, in case (a) by the Chairman, and in case (b) by the said employee, purporting to convey or set forth such approval, sanction, consent, concurrence, declaration, opinion or satisfaction, shall be sufficient evidence of such approval, sanction, consent, concurrence, declaration, opinion or satisfaction.

Compensation.

General
power of
Authority
to pay com-
pensation.

94. In any case not otherwise expressly provided for in this Ordinance, the Authority may pay reasonable compensation to any person who sustain damage by reason of the exercise of any of the powers vested, by this Ordinance or any rule made or scheme sanctioned hereunder, in the Authority or the Chairman or any employee of the Authority.

Compensa-
tion to be
paid by
offenders for
damage cau-
sed by them.

95. (1) If, on account of any act or omission, any person has been convicted of any offence against this Ordinance or any rule made hereunder, and, by reason of the same act or omission of the said person, damage has occurred to any property of the Authority, compensation shall be paid by the said person for the said damage, notwithstanding any punishment to which he may have been sentenced for the said offence.

(2) The amount of compensation payable by the said person shall be determined by the Magistrate while convicting him of the said offence.

(3) If the amount of any compensation due under this section be not paid, the same shall be recovered under a warrant from the said Magistrate as if it were a fine inflicted by him on the person liable therefor.

CHAPTER IX.

Penalties.

Punishment
for acquiring
share or inte-
rest in con-
tract, etc.,
with the
Authority.

96. If the Chairman, any Member, or any employee of the Authority knowingly acquire, directly or indirectly, by himself or by any partner, employer or employee, otherwise than as such Chairman, Member or employee, any share or interest in any contract or employment with, by or on behalf of, the Authority, not being a share or interest such as, under sub-section (2) of section 7, he shall be deemed to have committed the offence made punishable by section 168 of the Pakistan Penal Code, 1860.

XLV of
1860.

(Sections 97—100.)

97. If any person, without lawful authority,—
- Penalty for removing fence, etc., in street.
- (a) removes any fence or shoring-timber, or removes or extinguishes any light, set up in course of execution of any work by or under the auspices of the Authority, or
 - (b) infringes any order given, or removes any bar, chain or post fixed, in connection with above, he shall be punishable with fine which may extend to two hundred rupees.
98. If the owner for the time being of any wall or building in respect of which an agreement has been executed in this behalf with the Authority fails—
- Penalty for failure to remove wall or building in respect of which agreement has been executed.
- (a) to remove such wall or building, or any specified portion thereof, when so required by notice issued in that behalf,
 - (b) within fifteen days from the receipt of such notice to authorise the Chairman, by permission in writing to remove the said wall, building or portion, he shall be punishable—
 - (i) with fine which may extend, in the case of a masonry wall or building, to five hundred rupees, and, in the case of a hut, to fifty rupees; and
 - (ii) with a further fine, in the case of a masonry wall or building, to twenty rupees, and, in the case of a hut, to five rupees, for each day after the first during which the failure continues.
99. Whoever uses any land, included in a Master Plan, in contravention of section 23, shall be punishable—
- Penalty for use of land in Master Plan in contravention of section 23.
- (i) with fine which may extend to one thousand rupees, and
 - (ii) with a further fine which may extend to fifty rupees for each day after the first during which such contravention continues.
100. (1) The Court, convicting any person under section 98 or section 99 shall order the removal of the unauthorised construction, if any, by such person within a time to be fixed by the Court.
- Removal of unauthorised construction.
- (2) If such person fails to remove the unauthorised construction, within the time fixed, it shall be lawful for the Authority to cause such construction to be removed, and the cost of such removal shall be recoverable from that person as a public demand.

—(Sections 101—103.)

Penalty for failure to comply with requisition made by auditor.

101. If any person fails to comply with any requisition made under section 68 he shall be punishable—

- (a) with fine which may extend to one hundred rupees; or
- (b) in case of a continuing failure, with fine which may extend to fifty rupees for each day after the first during which the failure continues.

Penalty for obstructing contractor or removing mark.

102. If any person—

- (a) obstructs or molests any person with whom the Chairman has entered into a contract on behalf of the Authority, in the performance or execution by such person of his duty or of anything which he is empowered or required to do by virtue or in consequence of this Ordinance or any rule hereunder; or
- (b) removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorised by this Ordinance or any rule made or scheme sanctioned hereunder, he shall be punishable with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to two months.

CHAPTER X.

Control.

Powers of the Government to supersede the Authority.

103. If, in the opinion of the Provincial Government, the Authority have shown their incompetency to perform or have persistently made default in the performance of the duties imposed on them by or under this Ordinance or have exceeded or abused their powers, the Provincial Government may, by an order published in the *Official Gazette*, supersede them for a period specified in the order:

Provided that the Provincial Government before six months of such order of supersession shall give notice to the Authority to show cause why such action shall not be taken and also to provide them an opportunity to take remedial measures:

Provided further that except in case of misappropriation of Authority funds or persistent default in the performance of duties by the Authority the Provincial Government shall not ordinarily exercise powers under this section.

(Section 104.)

Dissolution of Authority.

104. (1) When all schemes sanctioned under this Ordinance have been executed, or have been so far executed as to render the continued existence of the Authority in the opinion of the Provincial Government unnecessary, the Provincial Government may, by notification, declare that the Authority shall be dissolved from such date as may be specified in this behalf in such notification; and the Authority shall be deemed to be dissolved accordingly.

Ultimate dissolution of Authority and transfer of their assets and liabilities to the Municipality.

(2) On and from the said date—

- (a) all properties, funds and dues which are vested in or realisable by the Authority and the Chairman respectively shall vest in and be realizable by the Municipality;
- (b) all liabilities which are enforceable against the Authority shall be enforceable only against the Municipality;
- (c) for the purposes of completing the execution of any scheme, sanctioned under this Ordinance, which has not been fully executed by the Authority and of realising properties, funds and dues referred to in clause (a), the functions of the Authority and the Chairman under this Ordinance shall be discharged by the Municipality and its Chairman respectively; and
- (d) the Municipality shall keep separate accounts of all moneys respectively received and expended by them under this Ordinance until all loans raised hereunder have been repaid, and until all other liabilities referred to in clause (b) have been duly met.

East Pakistan Ordinance No. LII of 1959

**THE EAST BENGAL STATE ACQUISITION AND
TENANCY (THIRD AMENDMENT) ORDINANCE, 1959.**

[27th July, 1959.]

AN

ORDINANCE

*further to amend the East Bengal State Acquisition and
Tenancy Act, 1950.*

E.B. Act
XXVIII
of 1951. Whereas it is expedient further to amend the East
Bengal State Acquisition and Tenancy Act, 1950, for the
purpose and in the manner hereinafter appearing;

Now, therefore, in pursuance of the Presidential Proclamation of the seventh day of October, 1958, and in exercise of all powers enabling him in that behalf, the Governor of East Pakistan is pleased to make and promulgate the following Ordinance, namely:—

1. (1) This Ordinance may be called the East Bengal State Acquisition and Tenancy (Third Amendment) Ordinance, 1959. Short title
and com-
mencement.

(2) It shall be deemed to have come into force on the 14th day of April, 1958.

2. [Repealed by the East Pakistan Repealing and Amending Ordinance, 1960 (E. P. Ord. XXVIII of 1960)].

East Pakistan Ordinance No. LVII of 1959.

**THE EAST PAKISTAN RENT-RECEIPT ORDINANCE,
1959.**

[15th August, 1959.]

An Ordinance to make provision for prevention of issue, possession and use of ante-dated rent-receipt by any person.

WHEREAS it is expedient to make provision for prevention of issue, possession and use of ante-dated rent-receipt by any person ;

Now, THEREFORE, in pursuance of the Presidential Proclamation of the seventh day of October, 1958, and in exercise of all powers enabling him in that behalf, the Governor of East Pakistan is pleased to make and promulgate the following Ordinance, namely:—

- | | |
|---|---|
| <p>1. (1) This Ordinance may be called the East Pakistan Rent-receipt Ordinance, 1959.</p> <p>(2) It extends to the whole of East Pakistan.</p> <p>(3) It shall come into force at once.</p> | <p>Short title,
extent and
commence-
ment.</p> |
| <p>2. Whoever issues any ante-dated rent-receipt or has in his possession any ante-dated rent-receipt, knowing or having reason to believe the same to be ante-dated, or uses the same as genuine, shall be punished with imprisonment for a term which may extend to five years, or with fine, or with both.</p> | <p>Prohibition
of issue,
possession
and use of
ante-dated
rent-receipt.</p> |

East Pakistan Ordinance No. LXI of 1959.

THE CINEMATOGRAH (EAST PAKISTAN AMENDMENT) ORDINANCE, 1959.

[3rd September, 1959.]

An Ordinance further to amend the Cinematograph Act, 1918.

WHEREAS it is expedient further to amend the Cinematograph Act, 1918 (II of 1918), for the purpose hereinafter appearing ;

NOW, THEREFORE, in pursuance of the Proclamation of the 7th day of October, 1958, and in exercise of all powers enabling him in that behalf, the Governor of East Pakistan is pleased to make and promulgate the following Ordinance, namely :—

1. (1) This Ordinance may be called the Cinematograph (East Pakistan Amendment) Ordinance, 1959.

Short title, extent and commencement.

(2) It extends to the whole of East Pakistan.

(3) It shall come into force at once.

2. In the Cinematograph Act, 1918 (II of 1918), after section 5, the following new section 5A shall be inserted, namely :—

Insertion of new section 5A in Act II of 1918.

“Exhibition of films approved by the Central Government or by the Provincial Government.

5A. (1) The Provincial Government may, from time to time, issue directions to licensees generally, or to any licensee in particular, for the purpose of so regulating the exhibition of any film, or class of films, that such scientific films intended for educational purposes, films dealing with news and current events, and documentary or indigenous films as may be approved by the Central Government or by the Provincial Government for compulsory exhibition secure an adequate opportunity of being exhibited, and where any such directions have been issued, these directions shall be deemed to be additional conditions and restrictions subject to which the licence has been granted under section 5.

(2) Directions issued under sub-section (1) may include directions to the effect that the films approved by the Central Government or by the Provincial Government for compulsory exhibition shall be exhibited on payment by the licensee of such rental, or of rent at such rate or rates, as may be specified therein.”

East Pakistan Ordinance No. LXII of 1959.

THE BENGAL HIGHWAYS (EXTENSION TO SYLHET)
ORDINANCE, 1959.

[3rd September, 1959.]

An Ordinance to extend the provisions of the Bengal Highways Act, 1925 to the district of Sylhet.

Ben. Act III of 1925. WHEREAS it is expedient to extend the provisions of the Bengal Highways Act, 1925, to the district of Sylhet and for that purpose to amend it in the manner hereinafter appearing ;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the seventh day of October, 1958 and in exercise of all powers enabling him in that behalf, the Governor of East Pakistan is pleased to make and promulgate the following Ordinance, namely :—

1. This Ordinance may be called the Bengal Highways Short title.
(Extension to Sylhet) Ordinance, 1959.

2. The Bengal Highways Act, 1925 (hereinafter referred to as the said Act) shall apply to the district of Sylhet and be amended as hereinafter provided. Application of Ben. Act III of 1925 to the district of Sylhet.

3. For sub-section (2) of section 1 of the said Act, the following shall be substituted, namely :— Amendment of section 1 of Ben. Act III of 1925.

“(2) It extends to the whole of East Pakistan.”

4. The proviso to section 2 of the said Act shall be omitted. Amendment of section 2 of Ben. Act III of 1925.

5. After section 3, the following new section shall be inserted, namely :— Insertion of new section 3A in Ben. Act III of 1925.

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der lo-
-author-
-ies.
3A. The Provincial Government may, at any time, by notification, withdraw any Government road from the control and administration of any local authority under which it may have been placed by or under any law, and resume the control and administration thereof itself ; and thereupon the right of control and administration of the local authority in respect of such road shall cease”.

[E. P. Ord. No. LXII of 1959.]

(Section 6, 7.)

Amendment
of section 4
of Ben. Act
III of 1925.

6. In section 4 of the said Act,—

(i) in sub-section (1) for the words “may make”, the words and the commas “may, after previous publication, make” shall be *substituted* ;

(ii) sub-sections (2) and (3) shall be *omitted*.

Repeal of
Assam Act II
of 1928.

7. The Assam Highways Act, 1928, in its application to the district of Sylhet, is hereby repealed.

Assam
Act II
of 1928.

East Pakistan Ordinance No. LXIV of 1959.

THE TOLLS (EAST PAKISTAN AMENDMENT)
ORDINANCE, 1959.

[16th September, 1959.]

*An Ordinance further to amend and supplement the Tolls
Act, 1851.*

Act VIII WHEREAS it is expedient further to amend and
of 1851. supplement the Tolls Act, 1851, for the purpose and in the
manner hereinafter appearing ;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the seventh day of October, 1958, and in exercise of all powers enabling him in that behalf, the Governor of East Pakistan is pleased to make and promulgate the following Ordinance, namely :—

1. (1) This Ordinance may be called the Tolls (East Short title,
Pakistan Amendment) Ordinance, 1959. extent and
commence-
ment.

(2) It extends to the whole of East Pakistan.

(3) It shall come into force at once.

2. (1) The Provincial Government may, from time to time, lease by public auction the levy of tolls upon any public road or bridge, for any period not exceeding 3 years, on such terms and conditions as it may deem fit. Power of
Provincial
Government
to lease levy
of tolls on
public roads
and bridges.

(2) The levy of tolls shall be settled with the highest bidder by open public auction ; but the Provincial Government may, for sufficient reasons 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 such auction.

(3) The lessee shall give security for the due fulfilment of the conditions of the lease, and the sums payable under the terms of the lease shall be recoverable as a public demand.

3. When the right to collect tolls on any public road or bridge has been duly leased, the lessee and the persons employed by the lessee as his agent for collecting tolls shall be deemed to be persons appointed to collect tolls under this Ordinance, and shall exercise all the powers and be subject to all the responsibilities attaching to persons so appointed. Acts of lessee
or his agents

[E. P. Ord. No. LXIV of 1959.]

(Sections 4—9.)

Amendment
of section 4
of Act VIII
of 1851.

4. For section 4 of the Tolls Act, 1851 (hereinafter referred to as the said Act), the following shall be substituted, namely :—

“Exemption
from pay-
ment of tolls.

4. The following persons and things shall be exempt from payment of tolls :—

- (a) Government Stores and persons in charge thereof;
- (b) Public servants travelling on duty, and the vehicles and animals employed by the persons aforesaid;
- (c) Any other class of persons or things which may be exempted by order of the Provincial Government provided that no exemption shall be granted during the currency of a lease.”

Power to
compound
for tolls.

5. The lessee of any toll bar may compound with any person for a certain sum to be paid by such person for himself or for any vehicles or animals kept by him in lieu of the prescribed rates.

Penalty for
refusing to
pay tolls.

6. Whoever, having rendered himself liable to payment of tolls, refuses to pay such tolls, shall be liable to fine which may extend to one hundred rupees.

Delegation
of powers.

7. The Provincial Government may, by notification in the *Official Gazette*, direct that any power or duty which is conferred or imposed by this Ordinance upon the Provincial Government, shall be exercised or discharged by any officer subordinate to it.

Power to
make rules.

8. The Provincial Government may make rules, not inconsistent with the provisions of this Ordinance, for the purpose of carrying into effect the provisions of this Ordinance.

Construction
of the Ord-
inance.

9. This Ordinance shall be construed with and deemed to be part of the Tolls Act, 1851.

Act VIII
of 1851.

East Pakistan Ordinance No. LXV of 1959.

**THE CHITTAGONG MUSLIM INSTITUTE
ORDINANCE, 1959.**

[24th September, 1959.]

WHEREAS by an Indenture of Exchange dated the 13th day of December, 1946, executed by the Chittagong Muslim Institute Committee and the Governor of Bengal, the properties described in the Schedule to this Ordinance were conveyed to the said Chittagong Muslim Institute Committee;

AND WHEREAS the said Chittagong Muslim Institute Committee has since then been in possession of the aforesaid properties along with all buildings, erections, fixtures, fittings and movables;

AND WHEREAS the said Chittagong Muslim Institute Committee has, by a resolution dated the 7th day of December, 1958, agreed to the taking over of the possession, control and management of the lands described in the Schedule to this Ordinance together with all buildings, erections, fittings, fixtures and movables by the Provincial Government;

AND WHEREAS it is expedient to make provision for taking over possession, control and management of the properties described in the Schedule to this Ordinance for the purpose of establishment of a public library, free reading room and Assembly Hall;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the seventh day of October, 1958, and in exercise of all powers enabling him in that behalf, the Governor of East Pakistan is pleased to make and promulgate the following Ordinance, namely:—

1. (1) This Ordinance may be called the Chittagong Muslim Institute Ordinance, 1959.

Short title
and com-
mencement.

(2) It shall come into force at once.

2. As from the date of promulgation of this Ordinance, the institution heretofore known as the Chittagong Muslim Institute and the *Musafirkhana* with attached Mosque together with the lands described in the Schedule to this Ordinance and all buildings and other erections standing or being thereon with all fixtures and fittings and all movable properties, funds, moneys, rights and powers which, immediately before the commencement of this Ordinance, were vested in, or held by, the Chittagong Muslim Institute Committee, shall be transferred to, and shall be vested in and held by, the Provincial Government free from all encumbrances and without payment of any compensation whatsoever.

Transfer to
and vesting
in the Pro-
vincial Govt.
of the Chitta-
gong Muslim
Institute.

[E. P. Ord. No. LXV of 1959.]

(Sections 3,4 and the Schedule.)

Protection of
action taken
under this
Ordinance.

3. No suit, prosecution or other legal proceedings shall lie against the Provincial Government or any person for anything which is in good faith done or intended to be done in pursuance of this Ordinance or any order made thereunder.

Power to
make rules.

4. (1) The Provincial Government may make rules for carrying out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for management, control and preservation of the Chittagong Muslim Institute, the *Musafirkhana* and the Mosque attached to it.

THE SCHEDULE.

All that piece and parcel of land situated in Mauza Anderkilla, P.S. Kotwali, in the district of Chittagong and surveyed as R. S. Plot No.2142, measuring 1·793 acres and R. S. Plot No.2145, measuring ·070 acres, in all measuring more or less than 1·863 acres, together with all buildings and erections standing thereon and known as the Chittagong Muslim Institute, the *Musafirkhana* and Mosque attached to it, with all fixtures, fittings and all movable properties thereon.

East Pakistan Ordinance No. LXVI of 1959.

**THE EAST PAKISTAN WAREHOUSES ORDINANCE,
1959.**

[30th September, 1959.]

An Ordinance to provide for the regulation of warehouses for storing agricultural produce in East Pakistan.

WHEREAS it is expedient to provide for the regulation of warehouses for storing agricultural produce in East Pakistan ;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the 7th day of October, 1958, and in exercise of all powers enabling him in that behalf, the Governor is pleased to make and promulgate the following Ordinance, namely :—

CHAPTER I.

Preliminary.

1. (1) This Ordinance may be called the East Pakistan Warehouses Ordinance, 1959.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of East Pakistan.

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

2. In this Ordinance, unless there is anything repugnant in the subject or context,—

Definitions.

(a) "Agricultural produce" means paddy, rice, jute, gram, rape-seed, wheat or any other crop which may be declared by the Provincial Government by notification in the *Official Gazette*, to be agricultural produce for the purposes of this Ordinance ;

(b) "depositor" means a person who tenders his agricultural produce to the warehouse-man for storing in his warehouse and includes any person who lawfully holds a receipt issued by the warehouse-man in respect of such produce and derives title to it by proper endorsement or transfer from the depositor or his lawful transferee ;

(c) "Director" means the Additional Director of Agriculture (Marketing), Government of East Pakistan ;

¹The Ordinance came into force with effect from the 22nd October, 1959, vide Notification No. 413-Mark, dated the 7th October, 1959, published in the *Dacca Gazette*, dated 22nd October, 1959, Part I, page 794.

[E. P. Ord. No. LXVI

(Sections 3—5.)

- (d) "prescribed" means prescribed by rules made under this Ordinance ;
- (e) "receipt" means a warehouse receipt drawn in conformity with the rules made under this Ordinance and issued by a warehouse-man to a depositor showing that certain agricultural produce described therein have been deposited in his warehouse ;
- (f) "warehouse" means any building, structure or other protected enclosure which is used or may be used for the purpose of storing of any agricultural produce ;
- (g) "warehouse-man" means a person who has taken out a licence under section 5 of this Ordinance ;
- (h) "small warehouse" means a warehouse of the capacity of five thousand maunds or less ; and
- (i) "large warehouse" means a warehouse of the capacity of more than five thousand maunds.

Licence for
Warehouses.

3. Any person desirous of running a warehouse under this Ordinance shall take out a licence for the conduct of his warehouse business by making an application in writing to the Director.

Conditions
for licence.

4. Before granting a licence, the Director shall satisfy himself—

- (a) that the warehouse is suitable for proper storage of the particular agricultural produce for which an application for such licence has been made in writing ;
- (b) that the applicant has furnished such security as may be prescribed and is competent to conduct such a warehouse ; and
- (c) that there is no other cause or reason for which the applicant for the licence may, in the opinion of the Director, be deemed to be disqualified.

Grant of
licence.

5. The Director, on being satisfied after making enquiries under section 4, may grant a licence to the applicant on payment of a fee of rupees fifty for a small warehouse and rupees one hundred for a large warehouse for the conduct of his business and on such terms and conditions as may be prescribed.

of 1959.]

(Sections 6—10.)

6. Every licence granted under section 5 shall be valid for the financial year and may, on the expiry of such period, be renewed, by the Director on an application in writing made by the warehouse-man on payment of an annual fee of rupees twenty-five for a small warehouse and rupees fifty for a large warehouse.

Term and renewal of licence.

7. (1) Every licence issued under section 5 or renewed under section 6 shall be liable to be suspended, cancelled or revoked either temporarily or permanently by the Director for valid reasons to be stated in writing, and in particular if the warehouse-man—

Suspension and cancellation of licence.

- (a) has been adjudicated an insolvent or bankrupt ;
- (b) has parted in whole or in part with his control over the licensed warehouse ;
- (c) has ceased to conduct such licensed warehouse ;
- (d) has made exorbitant or unreasonable charges for the services rendered by him ;
- (e) has in any other manner become incompetent to conduct the business of warehousing ; or
- (f) has violated any of the terms of the licence or of the provisions of this Ordinance or the rules.

(2) The Provincial Government may, by notification in the *Official Gazette*, prescribe any other conditions under which a licence may be suspended, cancelled or revoked.

(3) Any person aggrieved by an order passed under sub-section (1) shall be entitled to prefer an appeal to the Provincial Government or to such authority as it may appoint in this behalf.

8. (1) Before suspending, cancelling or revoking a licence the Director shall give notice to the warehouse-man specifying the charges against him and asking him to show cause within a prescribed period why such action should not be taken against him.

Notice of suspension and cancellation of licence.

(2) After considering the explanation, if offered by the warehouse-man, the Director may pass such order as he deems fit.

9. When a licence expires or is suspended, cancelled or revoked the warehouse-man shall cease to work as such and shall return the licence to the Director.

Return of licence.

10. Where a licence granted to a warehouse-man is lost or destroyed, the Director may issue a duplicate licence on an application made in writing in prescribed manner.

Duplicate licences.

(Sections 11—14.)

CHAPTER II.

Duties of Warehouse-man.

Reasonable
care of the
product
stored.

11. Every warehouse-man shall take such care of the agricultural produce stored in his custody as a reasonably careful person would take of his own produce under similar circumstances and conditions.

Precaution
against rats,
pests and in-
fected goods.

12. (1) Every warehouse-man shall keep his warehouse clean and in a sanitary condition and take all necessary precautions against rats and other pests which are likely to cause damage or injury to any of the agricultural produce stored in the warehouse.

(2) Every warehouse-man shall take out a policy of Insurance in respect of the agricultural produce stored in his warehouse against loss or damage by fire, flood, theft, riot, civil commotion or any other act of providence.

(3) No warehouse-man shall accept for storing in his warehouse agricultural produce which is contaminated or infected by worms and pests and which is likely to cause damage to other agricultural produce stored in the warehouse.

(4) The Provincial Government may, by notification in the *Official Gazette*, make rules for the keeping of the warehouse in clean and sanitary condition and for regulating the manner in which books and records are to be maintained by the warehouse-man.

Preservation
of identity
of products.

13. Every warehouse-man shall exercise such care to keep in his warehouse the agricultural produce of different depositors separate from each other so as to permit, at all times, the identification of the ownership and quality of such produce deposited and to facilitate easy delivery of such produce on demand by depositors:

Provided that where standardised and graded agricultural produce is stored in a warehouse, subject to any agreement between the warehouse-man and a depositor, there may be pooling of the same variety of such produce belonging to several depositors and each depositor shall be entitled only to his portion of such produce according to weight or quantity, as the case may be, as shown in his receipt.

Deteriora-
tion of
produce in
warehouse
and their
disposal.

14. Whenever agricultural produce stored in a warehouse deteriorates from causes beyond the control of the warehouse-man he shall give notice of such deterioration to the depositor asking him to take delivery of such produce immediately after surrendering the receipt duly discharged and paying the warehouse-man his charges.

of 1959.]

(Sections 15—20.)

If the depositor does not comply with the notice within a reasonable time, the warehouse-man may, with the approval of the Director in writing, cause such produce to be removed from his warehouse and sold by public auction at the cost and risk of the depositor. The sale-proceeds thereof shall be paid to the depositor after deducting charges due to the warehouse-man.

15. Every warehouse-man in the absence of any reasonable or lawful excuse shall without unnecessary delay deliver the agricultural produce stored in his warehouse to the depositor on a demand made by him and on surrender of the warehouse receipt duly discharged and on payment of the charges due to the warehouse-man. Subject to any agreement between the warehouse-man and the depositor, the latter may take partial delivery of his agricultural produce stored in the warehouse: Delivery of products.

Provided that the loss of weight by evaporation of moisture and shrinkage of its gain by absorption of moisture shall be accounted for when agricultural produce is delivered wholly or in part under the provisions of this section or when disposed of as provided in section 14.

16. No warehouse-man shall in the conduct of his business show any discrimination between persons desiring to avail themselves of the facilities of his warehouse so as to prejudicially affect their interests. Discrimination prohibited.

17. No warehouse-man shall deal in or lend money or agricultural produce which he receives in his warehouse either on his own account or that of others. Warehouse-man not to lend against the products in his warehouse.

18. A warehouse-man shall issue a receipt in the prescribed form containing full particulars in respect of the agricultural produces stored in his warehouse by each depositor. Issue of receipt.

19. A receipt issued by a warehouse-man shall, unless specified otherwise, be transferable by endorsement and shall entitle its lawful holder to receive the agricultural produces specified in it on the same terms and conditions on which the person who originally deposited such produce would have been entitled to receive it. Receipt transferable by endorsement.

20. In case a receipt is lost or destroyed a warehouse-man shall issue a duplicate receipt to the depositor on an application being made in writing in this behalf and upon furnishing such indemnity and on payment of such fees as may be prescribed. Duplicate receipt.

(Sections 21—27.)

Delegation
of power.

21. The Director may delegate any of the powers conferred on him under this Ordinance to any officer subordinate to him.

CHAPTER III.

Inspection
and classifi-
cation of
products.

22. The Director or any officer authorised by him in this behalf may inspect or examine a warehouse licensed under this Ordinance, its machinery, equipment, agricultural produce stored, the account books, records, etc., at any time during business hours for the purpose of satisfying himself that the requirements of this Ordinance and the rules are being complied with.

Licensed
weighers and
graders.

23. (1) Each warehouse approved and licensed under this Ordinance, shall have on its staff a person assigned by the Director, who is qualified, competent and licensed by the Director to act as weigher, sampler or grader of any agricultural produce stored or to be stored in such warehouse.

(2) The Director shall grant licences to weighers, samplers and graders on such terms and conditions and on payment of such fees as may be prescribed.

(3) The Director shall publish rules and regulations defining specifically the duties and responsibilities of licensed weighers, samplers and graders and shall assign them to a particular warehouse or area.

(4) The agricultural produce to be stored in the warehouse may be graded and the warehouse-man shall provide facilities for such grading.

Suspension
or cancella-
tion of
licence.

24. Every licence granted to a sampler, weigher or grader may be suspended or revoked by the Director in the prescribed manner.

Return of
licence.

25. Whenever a licence granted to a sampler, weigher or grader expires or is suspended or revoked, he shall return it to the Director.

Prohibition
of unlicensed
weighers,
graders, etc.

26. No person who is not licensed under this Ordinance shall act or hold himself out as a licensed weigher, sampler or grader.

CHAPTER IV.

Miscellaneous.

Settlement of
disputes.

27. In the case of a dispute regarding the action of warehouse-man, weigher, sampler or grader, the matter shall be referred to the Director whose decision shall be final.

of 1959.]

(Sections 28—30.)

28. (1) Any person who intentionally infringes any of the provisions of this Ordinance or the rules made under this Ordinance shall, on conviction by a Magistrate, be liable to imprisonment of either description for a period not exceeding two years or with fine not exceeding one thousand rupees or with both. Penalty.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 an offence under this Ordinance shall be cognisable and triable by a Magistrate of the First Class. Act V of 1898.

29. No suit, prosecution or other legal proceedings shall lie against any person empowered to perform any functions under this Ordinance for anything which is in good faith done or intended to be done under this Ordinance. Idemnity.

30. The Provincial Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Ordinance. Power to make rules.

East Pakistan Ordinance No. LXVII of 1959.

THE EAST PAKISTAN FOREST INDUSTRIES DEVELOPMENT CORPORATION ORDINANCE, 1959.

[3rd October, 1959.]

An Ordinance to establish a Corporation for the purpose of promoting the development of Forest Industries in East Pakistan.

WHEREAS it is expedient to establish a Corporation for the purpose of promoting the development of industries based on forest products and water resources in the Forest areas in East Pakistan.

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the seventh day of October, 1958, the Governor is pleased in exercise of all powers enabling him in that behalf, to make and promulgate the following Ordinance.

1. (1) This Ordinance may be called the East Pakistan Forest Industries Development Corporation Ordinance, 1959.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of East Pakistan.

(3) It shall come into force on such date¹ as the Provincial Government may, by notification in the *Official Gazette*, appoint.

2 In this Ordinance, unless there is anything repugnant in the subject or context,—

Interpreta-
tion.

(a) "Board" means the Board of Directors of the Corporation;

(b) "Corporation" means East Pakistan Forest Industries Development Corporation established under this Ordinance;

(c) "Prescribed" means prescribed by rules or regulations under this Ordinance ; and

(d) "Schedule" means schedule appended to this Ordinance.

3. (1) As soon as may be after the commencement of this Ordinance, the Provincial Government shall establish a Corporation to be called "The East Pakistan Forest Industries Development Corporation".

Establish-
ment and in-
corporation.

(2) The Corporation shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Ordinance, to acquire, hold and dispose of property both movable and immovable and shall by the said name sue and be sued.

¹The Ordinance came into force with effect from the 22nd October, 1959, *vide* Notification No. 2114-For., dated the 12th October, 1959, published in the *Dacca Gazette*, dated 22nd October 1959, Part 1, page 795.

The Ordinance was applied to the Chittagong Hill-Tracts with certain modifications with effect from the 26th November, 1959, *vide* Notification No. 2245-For., dated the 17th November, 1959, published in the *Dacca Gazette*, dated the 26th November, 1959, Part I, page 891.

(Sections 4—6.)

Share
Capital.

4. (1) The authorised share capital of the Corporation shall be one crore of rupees divided into ten thousand fully paid-up shares of one thousand rupees each, of which two thousand five hundred shares shall be issued in the first instance and the remaining shares may be issued from time to time by the Corporation with the previous sanction of the Provincial Government.

(2) The Provincial Government shall be a share holder of the Corporation and shall subscribe to and hold not less than fifty-one *per centum* of the shares issued by the Corporation at any time, the remaining shares being open for public subscription.

(3) Nothing in sub-section (1) shall prevent the Corporation from increasing the authorised share capital as it may think fit with the previous sanction of the Provincial Government.

Manage-
ment.

5. (1) The general direction and administration of the Corporation and its affairs shall vest in a Board, which may exercise all powers and do all acts and things which may be exercised or done by the Corporation.

(2) The Board in discharging its functions shall act on commercial considerations and shall be guided on questions of policy involving the national interest (including commercial and industrial interest) by such directions as the Provincial Government, which shall be the sole judge whether the national interest is involved, may give it from time to time.

(3) If the Board fails to carry out any direction as aforesaid, the Provincial Government may remove the Directors including the Chairman, and notwithstanding anything contained in section 6, appoint persons in their place to be Directors temporarily until a fresh Board of Directors are appointed in accordance with the provision of that section.

Appoint-
ment and
terms of
office of
Directors.

6. (1) The Board shall consist of three Directors including Chairman to be appointed by the Provincial Government.

(2) Each Director shall:-

- (a) be a wholetime officer of the Corporation;
- (b) perform such duties as the Board may by regulations assign to him;
- (c) divest himself of any directorship or other interest held by him in any Corporation, company or concern other than companies sponsored by the

of 1959.]

(Sections 7—10.)

Corporation under sub-section (2) of section 14 before assuming office as Director;

(d) hold office for a term of three years unless sooner removed by the Provincial Government and may be appointed thereafter for a further term or terms of such duration as the Provincial Government may in appointing him thereafter, determine; and

(e) receive such salary and allowances as the Provincial Government may determine:

Provided that the Provincial Government may in exceptional circumstances where it considers necessary to do so in the public interest, exempt by a special order any person who has been appointed or is about to be appointed a Director from the operation of clauses (a) and (c) of this sub-section.

7. (1) The Provincial Government shall appoint one Chairman. of the Directors to be the Chairman of the Board.

(2) Subject to his continuing to hold office as a Director, the Chairman shall hold office as Chairman for a term of three years and subject as aforesaid shall remain in office as Chairman thereafter until his successor in that office is appointed and be eligible to hold that office for a further like term or terms.

8. (1) No person shall be or shall continue to be a Director who— Disqualifica-
tion of Direc-
tors.

(a) is or at any time has been convicted of an offence involving moral turpitude; or

(b) is or at any time has been adjudicated insolvent; or

(c) is found to be lunatic or of unsound mind; or

(d) is a minor.

(2) No Director shall continue in office after absenting himself from three consecutive meetings of the Board without the leave of absence from the Chairman, or, in the case of the Chairman, from the Provincial Government.

9. The Corporation may appoint such officers, advisers and employees as it considers necessary for the efficient performance of its functions on such terms and conditions as may be prescribed by rules. Appoint-
ment of
officers, etc.

10. (1) The meeting of the Board shall be held at such time and such places as may be prescribed by rules: Meeting of
the Board.

(Sections 11—14).

Provided that until rules are made in this behalf such meetings shall be convened by the Chairman of the Board.

(2) To constitute a quorum at a meeting of the Board, not less than two Directors shall be present.

(3) Each Director including the Chairman shall have one vote, and in the event of an equality of votes the Chairman shall have a second or casting vote.

(4) If for any reason the Chairman is unable to be present at a meeting, the Director so authorised by him in writing shall preside at the meeting, and in default of such authorisation, the Directors shall elect from among themselves a Chairman to preside at that meeting.

Head Office. 11. The Corporation shall establish its head office in Dacca.

Deposit Account. 12. The Corporation may open a deposit account with the State Bank of Pakistan or with any agency of the State Bank other than a Government Treasury or with the prior approval of the Provincial Government, with any other Scheduled Bank.

Investment Funds. 13. The Corporation may invest its funds in such securities of the Provincial or the Central Government or in such other manners as may be prescribed by rules.

Business which the Corporation shall transact. 14. (1) The Corporation shall submit, for the approval of the Provincial Government, schemes for the establishment of the industries specified in the Schedule to this Ordinance.

(2) The Corporation shall, as soon as may be, proceed to give effect to any scheme so approved by sponsoring public companies (hereinafter referred to in this section as 'The aforesaid companies') incorporated under the Companies Act, 1913, and independent of each other and having as their object manufacturing undertakings in the industry concerned: VII o 1913.

Provided that before sponsoring any such company the Corporation shall obtain the approval of the Provincial Government to the Company's capital structure.

(3) The Corporation shall unless otherwise directed by the Provincial Government, act as Managing Agents for the aforesaid companies, and may, with the prior concurrence of the Provincial Government, relinquish the managing agency in favour of any company.

of 1959.]

(Sections 15—18.)

VII of
1913.

(4) Nothing in section 87A of the Companies Act, 1913, shall apply to the Corporation.

(5) The Corporation shall be represented in the Board of Directors of the aforesaid Companies.

(6) The Corporation may issue the capital required by the aforesaid companies for public subscription and if any portion thereof remains unsubscribed for a period of four months from the date of issue it shall be subscribed by the Corporation.

(7) The Corporation may underwrite the whole or any portion of the share capital so issued.

(8) The Corporation may when it deems fit sell or transfer the shares subscribed by it under sub-section (6):

Provided that no such sale or transfer shall take place at a rate below the market quotation and below the par value of such shares without the previous sanction of the Provincial Government.

(9) The Corporation may, with the previous sanction of the Provincial Government and on such terms and conditions as may be approved by the Government, borrow in foreign currency from any International Bank or otherwise moneys required for development of industries specified in the schedule to this Ordinance.

VII of
1913.

15. The Provincial Government shall appoint auditors who shall be persons holding a certificate under section 144 of the Companies Act, 1913, on such remuneration as it may fix and such remuneration shall be paid by the Corporation. **Audit.**

16. An audited statement of accounts shall be furnished to the Provincial Government by the Corporation as soon as possible after the end of every financial year. **Account.**

17. The Corporation shall, as soon as possible after the end of every financial year, submit an annual report to the Provincial Government on the conduct of its affairs for that year, and on its proposals for the next ensuing financial year. **Annual Report.**

18. The Provincial Government may make rules not inconsistent with this Ordinance for the purpose of giving effect to the provision of this Ordinance and where the rules made under this section are inconsistent with the regulations made under the next succeeding section, the rules shall prevail. **Power of Provincial Government to make rules.**

[E. P. Ord. No. LXVII of 1959.]

(Sections 19—21 and the schedule.)

Power of Board to make Regulations.

19. (1) The Board may, with the previous approval of the Provincial Government, make regulations not inconsistent with this Ordinance or rules made thereunder to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing powers, such regulations may provide for—

- (d) the procedure of meeting of the Board;
- (b) the investment of the Corporation's funds; and
- (c) the sale or transfer of shares under sub-section (8) of section 14.

Power to amend schedule.

20. The Provincial Government may, from time to time, by notification in the *Official Gazette* amend the schedule to this Ordinance so as to include therein or exclude therefrom any industry or vary the description of any industry included therein.

Repeal of E. P. Ordinance LXIII of 1958.

21. The East Pakistan Forest Industries Development Corporation Ordinance, 1958 is hereby repealed.

THE SCHEDULE.

(See section 14.)

- (1) Extraction of forest produce.
- (2) Saw-mill.
- (3) Seasoning Kiln.
- (4) Preservation of Timber.
- (5) Ply-wood.
- (6) Timber-Boards.
- (7) Pulp Mill.
- (8) Prefabricated structural materials.
- (9) Boxwood Industry.
- (10) Wood-oil.
- (11) Honey.
- (12) Tanning Factory.

East Pakistan Ordinance No. LXVIII of 1959.

THE EAST PAKISTAN PURE FOOD ORDINANCE, 1959.

[14th October, 1959.]

An Ordinance to provide for the better control of the manufacture and sale of food for human consumption.

WHEREAS it is expedient to provide for the better control of the manufacture and sale of food for human consumption ;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the seventh day of October, 1958, and in exercise of all powers enabling him in that behalf, the Governor of East Pakistan is pleased to make and promulgate the following Ordinance, namely:—

CHAPTER I.

Preliminary.

1. (1) This Ordinance may be called the East Pakistan Pure Food Ordinance, 1959. Short title, extent and commencement.

(2) It extends to the whole of East Pakistan.

(3) It shall come into force at once.

2. ~~The Bengal Food Adulteration Act, 1919~~ and the Assam Pure Food Act, 1932, are hereby repealed. Repeal of Bengal Act VI of 1919 and Assam Act I of 1932.

3. In this Ordinance, unless there is anything repugnant in the subject or context,— Definitions.

(1) an article of food shall be deemed to be "adulterated" if—

(a) any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength, or

(b) any substance has been substituted wholly or in part for it, or

(c) any of the normal constituents has been wholly or in part abstracted so as to render it injurious to health, or

(d) it is mixed, coloured, powdered, coated or stained in a manner whereby damage or inferiority is concealed, or

(e) it does not comply with any standard provided by or under this Ordinance or any other law for the time being in force, or

[E. P. Ord. No. LXVIII]

(Section 3.)

- (f) it contains or is mixed or diluted with any substance in such quantity as is to the prejudice of the purchaser or consumer or in such proportion as diminishes in any manner the food value or nutritive qualities which it possesses in its pure, normal, undeteriorated and sound condition, or
 - (g) it contains any poisonous or deleterious ingredient which may render it injurious to health, or
 - (h) it is not of the nature, substance or quality which it purports to be or which it is represented to be by the manufacturer or the seller ;
- (2) "bye-laws" means bye-laws made under this Ordinance ;
- (3) "container" includes a package or receptacle of any kind, whether open or closed ;
- ~~(4)~~ "dairy" includes—
- (a) any farm, cattle-shed, milk-store, milk-shop or other place, at which milk is stored or supplied for sale or is manufactured into butter, *ghee*, cheese, curds, or skimmed, condensed, sterilized or desiccated milk, and
 - (b) in the case of a dairyman or other person selling milk, who does not occupy any premises for the purpose of such sale, any place at which such dairyman or person keeps any container used or intended to be used by him for the purposes of such sale, ✓
- but does not include—
- (i) a shop or other place at which milk is sold solely in the closed and unopened containers in which it is delivered thereto from any source referred to in sub-clauses (a) and (b), or solely in hermetically closed and unopened containers and in the same condition as that in which it was delivered thereto from such source, or
 - (ii) a shop or other place at which milk is sold solely for consumption therein;
- ~~(5)~~ "food" means any article used as food or drink for human consumption, other than water or any drug, and includes ice and aerated water and—
- (a) any substance which is intended for use in the composition or preparation of food,

of 1959.]

(Section 3.)

(b) any flavouring matter or any spice or condiment,
and

(c) any colouring matter intended for use in food:

Provided that, notwithstanding anything contained in this definition, the addition of any colouring or flavouring matter or any spice or condiment to an article of food shall be deemed to be the additional of a substance to food;

(6) "local area" means the area situated within the jurisdiction of a local authority, and includes any area notified by the Provincial Government to be a local area for the purpose of this Ordinance;

(7) "local authority" means—

(a) in a municipality constituted under the Bengal Municipal Act, 1932 or the Assam Municipal Act, 1923, the commissioners of the municipality,

(b) in any local area situated within the jurisdiction of a District Board or a Local Board, the District Board or the Local Board, and

(c) in any other local area, such authority or person as may be notified by the Provincial Government;

(8) "manufacture" means manufacture for the purpose of sale or for preparation for sale, and the expressions "manufactured" and "manufacturers" shall be construed accordingly;

(9) "notified" means notified in the *Official Gazette*;

(10) "prescribed" means prescribed by rules;

(11) "rules" means rules made under this Ordinance;

(12) "sale" means a transfer of ownership in exchange for a price, whether in money or in kind, paid or promised or partly paid or partly promised, and includes—

(a) the making, causing or permitting of such transfer,

(b) the attempt to effect such transfer, and

(c) any possession, storage, offer, exposure, despatch, consignment, deposit or receipt for the purposes of such transfer or for preparation for such transfer,

Ben. Act.
XV of
1932.
Assam
Act I of
1923.

[E. P. Ord. No. LXVIII

(Sections 4, 5.)

and the expression "sell", "seller", "sells" and "sold" shall be construed accordingly; and

(13) "transit" includes every stage of transit from the place of manufacture or other source of origin to the consumer.

Appointment
of public
analysts.

✓~~4~~(1) The Provincial Government, or a local authority, may appoint one or more persons (hereinafter referred to as "public analysts") to be analysts of food for any area within the jurisdiction of the Provincial Government or such local authority respectively.

(2) No person shall be appointed a public analyst for any area—

(a) if he is directly or indirectly engaged in any trade or business connected with the manufacture or sale of any article of food, and

(b) unless he possesses, on the date of his appointment, such qualifications as may be prescribed.

(3) The appointment by a local authority of any person to be a public analyst, and the removal of any person so appointed, shall be subject to the approval of the Provincial Government.

(4) The salary payable to, and the conditions of appointment of, a public analyst appointed under this section shall be such as may be prescribed. —

(5) The Provincial Government, or the local authority, with the approval of the Provincial Government, may appoint a person to act as public analyst during any vacancy in the office of, or during the absence or in capacity of, the public analyst. ✓

Power of
Provincial
Government
to determine
by rules to
provide for
normal constituents
of articles of
food and
deficiencies
or additions
rendering
such articles
adulterated.

5. (1) The Provincial Government may determine by rules in this behalf—

(a) the normal constituents and the values of the chemical and physical constants of any article of food, and

(b) in respect of a sample of any article of food, the deficiency in any such constituent or the addition of any extraneous matter or the proportion of water which shall, for the purpose of this Ordinance and until the contrary is proved, raise a presumption that such article is adulterated.

(2) A public analyst shall, when certifying the result of any analysis made under this Ordinance, have regard to the rules referred to in sub-section (1).

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(Section 6.)

(3) When any rule referred to in sub-section (1) has been made, the purchaser of any article of food to which rule applies shall, until the contrary is proved, be deemed to have demanded food complying with such rule.

CHAPTER II.

Manufacture and Sale of Food. ✓

6. (1) No person shall, directly or indirectly and whether by himself or by any other person acting on his behalf,—

Prohibition of manufacture or sale of food not of proper nature, substance or quality.

(a) manufacture or sell any article of food which is adulterated, or

(b) sell to the prejudice of the purchaser any article of food which is not of the nature, substance or quality demanded by the purchaser.

(2) An offence shall not be deemed to have been committed under sub-section (1), if the article of food contains the normal constituents prescribed under clause (a) of sub-section (1) of section 5, and if the chemical and physical constants of the article are in accordance with those referred to in the said clause—

(a) where any innocuous substance or ingredient has been added thereto, if such substance or ingredient—

(i) is required for the production or preparation of such article as an article of commerce in a condition fit for carriage or consumption, and

(ii) is not so added fraudulently to increase the bulk weight or measure, or to conceal the inferior quality, of such article:

Provided that the admixture of such substance or ingredient does not render such article to be injurious to health; or

(b) where any constituent has been abstracted therefrom if such abstraction is required for the production or preparation of such article as an article of commerce fit for carriage or consumption and does not render such article to be injurious to health; or

(c) where a patent has been granted under any law for the time being in force, if such article is manufactured or sold in the condition required by the specification of the patent.

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(Sections 7, 8.)

(3) The opinion of the public analyst on the question whether any substance or ingredient is innocuous shall, subject to the provisions of section 32, be conclusive evidence on such question.

(4) In any prosecution under this section,—

(a) it shall not be a defence to allege—

(i) that the purchaser bought for analysis or examination and therefore was not prejudiced, or

(ii) that the person who manufactured or sold the article of food had no knowledge of, and could not with reasonable diligence have ascertained, its nature, substance or quality; and

(b) the Court shall, until the contrary is proved, presume that any article of food, which is found in the possession of any person who manufactures or sells similar articles, has been manufactured by that person, or is for sale by him, as the case may be.

Prohibition of manufacture or sale of food not of proper standard of purity.

7. No person shall, directly or indirectly and whether by himself or by any other person acting on his behalf, manufacture or sell, as the case may be, any milk, butter, *ghee* (that is to say, clarified milk fat), wheat flour (that is to say, *maida*, *atta* or *suji*) or mustard or any other rape seed oil, or any other article of food which may be notified by the Provincial Government in this behalf, unless the conditions specified in sections 8, 9, 10, 11, 12 and 13 are respectively fulfilled.

Standard of purity of milk or skimmed milk or condensed milk or sterilised milk or desiccated milk.

~~8.~~ (1) In the case of milk other than skimmed, condensed, sterilized or desiccated milk,—

(a) the species of animal from which the milk is derived shall be specified by the seller in such manner as the local authority may direct by general or special order in this behalf;

(b) the article sold shall be the normal, clean and fresh secretion obtained by the complete milking of the udder of a healthy animal of the species specified, not earlier than seven days after the calving and freeing of the colostrum of such animal; and

(c) the article sold shall, whether such secretion has been processed or not, be an article from which no ingredient has been extracted and to which

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(Sections 9—11.)

no water or other substance (including any preservative) has been added and which contains the normal constituents prescribed under clause (a) of sub-section (1) of section 5.

(2) In the case of skimmed milk,—

- (a) the container shall be labelled and marked in such manner as may be prescribed;
- (b) the article sold shall contain such proportion of the constituents of milk as may be prescribed; and
- (c) the place at which such article is sold shall be specified by the seller in such manner as the local authority may direct by general or special order in this behalf.

(3) In the case of condensed, sterilized or desiccated milk,—

- (a) the container shall be hermetically closed, labelled and marked in such manner as may be prescribed; and
- (b) the article manufactured or sold, as the case may be, shall contain such proportion of the constituents of milk as may be prescribed.

9. In the case of butter, the article manufactured or sold, as the case may be, shall be exclusively derived from the milk or cream (other than skimmed, condensed, sterilized or desiccated milk or cream) of a cow or buffalo or both, and may be with or without salt and with or without the addition of any innocuous colouring matter, and shall not contain a greater proportion of water than may be prescribed.

Standard of
purity of
butter.

10. In the case of *ghee* (that is to say, clarified milk fat), the article manufactured or sold, as the case may be, shall contain only substances (other than curds) which are prepared exclusively from the milk of cows or buffaloes or both, and shall fulfil such other conditions as may be prescribed.

Standard of
purity of
ghee.

11. In the case of wheat flour (that is to say, *maida*, *atta* or *suji*), the article manufactured or sold, as the case may be, shall contain only substances which are derived exclusively from wheat, and shall fulfil such other conditions as may be prescribed.

Standard of
purity of
wheat flour.

(Sections 12—15.)

Standard of purity of mustard or any other rape seed oil. **12.** In the case of mustard or any other rape seed oil, the article manufactured or sold, as the case may be, shall be derived exclusively from mustard or any other rape seed, as the case may be, and shall fulfil such other conditions as may be prescribed.

Standard of purity of any other article of food. **13.** In the case of any other article of food which may be notified by the Provincial Government under section 7, the article manufactured or sold, as the case may be, shall fulfil such conditions as may be prescribed.

Prohibition of manufacture or sale of anything similar to or resembling an article of food. **14.** No person shall, directly or indirectly and whether by himself or by any other person acting on his behalf, manufacture or sell—

- (a) anything similar to or resembling an article of food notified under section 7 or specified in sections 8, 9, 10, 11, 12 and 13, under any name which so resembles the ordinary name of such article of food as to be likely to deceive the public or which is in any way calculated to mislead the public as to the nature, substance or quality of that thing; or
- (b) any food in the preparation of which an article of food notified under section 7 or specified in sections 8, 9, 10, 11, 12 and 13 has been used, unless such article fulfils the conditions specified in sections 8, 9, 10, 11, 12 and 13 as being applicable to it.

Absence of knowledge as to the character and composition of an article of food is no defence. **15.** In any prosecution under this section,—

- (a) it shall not be a defence to allege that the person who manufactured or sold the article of food had no knowledge of, and could not with reasonable diligence have ascertained, the nature, substance or quality, of such article or of any article used in the preparation thereof; and
- (b) the Court shall, until the contrary is proved, presume that any article of food notified under section 7 or specified in sections 8, 9, 10, 11, 12 and 13 or referred to in clause (b) of section 14, or any ingredient of, or anything used in the preparation of, such article, which is found in the possession of any person who manufactures or sells similar articles, has been manufactured by that person or has been kept by him for being used in the manufacture of such article or is for sale by him or has been

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(Sections 16—18.)

kept by him for the purpose of preparation of any food referred to in clause (b) of section 14, as the case may be.

16. (1) No person shall keep or permit to be kept, in any manufactory, shop or place in which any article of food notified under section 7 or specified in sections 8, 9, 10, 11, 12 and 13 is manufactured or sold, any substance intended to be used for the adulteration of such article.

Prohibition of keeping adulterants in places where food is manufactured or sold.

(2) In any prosecution under this section, the Court shall, until the contrary is proved, presume that any substance, capable of being used for such adulteration and found in such manufactory, shop or place, is intended to be used for the purpose of such adulteration.

(3) No person shall keep *Guzi* (niger seed) in any manufactory, shop or place mentioned in sub-section (1).

(4) No person shall keep any quantity of white oil except under a licence granted by a local authority in such manner and form and subject to such conditions as may be prescribed.

17. (1) No person shall sell for human consumption any living thing which is diseased or unsound or sell or manufacture any other article of food intended for human consumption which is unwholesome or unfit for human consumption.

Prohibition of sale of diseased animals and unwholesome food intended for human consumption.

(2) In any prosecution under this section, the Court shall, until the contrary is proved, presume that any living thing which is diseased or unsound or any other article of food which is unwholesome or unfit for human consumption and is found in the possession of any person who sells similar living things or sells or manufactures similar articles of food for human consumption, is for sale or has been manufactured, as the case may be, by that person for human consumption.

18. (1) No person shall, directly or indirectly and whether by himself or by any other person acting on his behalf, with any article of food sold by him, give to the purchaser a label, whether attached to or printed on the container in which such article is sold or not, which falsely describes that article or is otherwise calculated to mislead as to its nature, substance or quality.

Prohibition of use of false labels.

(2) In any prosecution under this section, it shall not be a defence to allege that the person who gave such a label had no knowledge of, and could not with reasonable diligence have ascertained, its character.

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*(Sections 19, 20.)*Prohibition
of false ad-
vertisements.

19. (1) No person shall publish or cause to be published, an advertisement (not being a label referred to in section 18) which falsely describes any article of food or is otherwise calculated to mislead the public as to its nature, substance or quality.

(2) In any prosecution under this section, it shall be a defence for the accused to prove either—

- (a) that he did not know, and could not with reasonable diligence have ascertained that the advertisement was of such a character as aforesaid; or
- (b) that, being a person whose business it is to publish or arrange for the publication of advertisements, he received the advertisement for publication in the ordinary course of business.

(3) In any prosecution under this section against the manufacturer or the seller, the Court shall, until the contrary is proved, presume that such advertisement was published or caused to be published by such manufacturer or seller as the case may be.

Conditions
in which
warranty
may be
pleaded
as
defence.

20. (1) Notwithstanding anything contained in section 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18, in any prosecution for the sale of any article of food in contravention of any of the provisions of those sections relating to such article, it shall be a defence for the seller to prove—

- (a) that he purchased such article as being of a nature substance or quality which would entitle him to sell it and with a written warranty to that effect, and
- ✓ (b) that, at the time of the sale to which the prosecution relates, he had no reason to suppose that the article was not of such a nature, substance or quality, and that it was then in the same condition as when he purchased it;

Provided that a warranty given by a person who is not a resident in East Pakistan shall not be a defence unless the seller strictly proves to the satisfaction of the Court that he had taken reasonable steps to ascertain, and did in fact believe in, the correctness of the statement contained in the warranty.

(2) Notwithstanding anything contained in any other law for the time being in force, no evidence relating to a warranty alleged under clause (a) of sub-section (1) shall be admissible on behalf of the seller unless, within seven

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(Section 21.)

days of the date of service upon him of any process issued by a Court for his attendance therein, he has sent—

(a) to the complainant a copy of the warranty, together with a written notice stating that he intends to rely upon the warranty and specifying the name and address of the person from whom he received it, and

(b) to the person from whom he received the warranty, a notice of his intention to rely upon it.

(3) No person, whether as a principal or as an agent, shall give to a purchaser, in respect of any article of food, any warranty in writing which is false or which he has reason to believe to be false.

21. (1) After the commencement of this Ordinance, no premises shall be used for— Registration
of certain
premises.

(a) the wholesale manufacture or wholesale sale of any article of food notified under section 7 or specified in sections 8, 9, 10, 11, 12 and 13, or

(b) the manufacture or sale of ice-cream or any pickled, potted, pressed or preserved food, or

(c) hotel, inn, restaurant or sweetmeat shop,

unless such premises have been registered by the occupier thereof in such manner, by such date and on payment of such fee as may be prescribed:

Provided that the occupier of any premises so used on the date of the commencement of this Ordinance shall be allowed a period of two months from that date within which to effect registration.

Explanation.—For the purposes of this section, the preparation of meat or fish by any process of cooking shall be deemed to be the preservation thereof.

(2) Every registration under this section shall be renewed annually by the occupier of the premises in such manner, by such date and on payment of such fee as may be prescribed.

(3) An application for registration or renewal thereof shall, in the prescribed manner and form, be made to the local authority, which shall, in the prescribed manner and form, maintain a record of every such registration and renewal thereof.

(4) The occupier of premises specified in clause (a) of sub-section (1) shall, in the prescribed form, maintain a

(Sections 22, 23.)

record showing the quantity of each consignment of food despatched from such premises and the destination of each consignment, and such record shall be open to inspection by such officer of the local authority as may be authorized by the local authority in this behalf.

(5) The registration of any premises under this section may be cancelled by the local authority if—

- (a) the premises cease to be used for the purposes for which they were registered,
- (b) in the case of premises specified in clause (a) of sub-section (1), if the occupier fails to maintain the record referred to in sub-section (4), or
- (c) if the occupier is convicted of an offence punishable under this Ordinance:

Provided that in the case of the first conviction under this Ordinance, the registration will not be cancelled unless the Court is of opinion that the offence is so serious as to warrant the cancellation of registration; but in the case of subsequent convictions under this Ordinance, the cancellation of registration will follow as a matter of course.

(6) Nothing in this section shall apply to any premises used primarily as a club, theatre, cinema or public hall.

Special provision for sellers of ice-cream, aerated water, etc.

22. Any dealer in ice-cream, *kulpi*, ice, aerated water, *sarbat*, sweetmeats, biscuits, bread or any other dry food made of pulse or flour, who sells such article of food in any premises or part of any premises, and any such dealer by whom or on whose behalf any vehicle or container is used for the sale of any such articles of food elsewhere than in any premises or part of any premises, shall have his name and address legibly and conspicuously displayed on such premises, part of such premises, vehicle or container, as the case may be, in Bengali and Urdu.

Prohibition of the keeping of bread-stuffs, etc., otherwise than in covered receptacles.

23. No milk, bread-stuffs, cake, pastry, sweetmeats, confectionery or other article of food intended or commonly used for human consumption without further preparation by cooking shall be sold, exposed or kept or hawked about or stored for sale unless they be kept properly covered or otherwise guarded to the satisfaction of the local authority, so that they shall be protected from dust, dirt and flies.

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(Sections 24, 25.)

24. The occupier of any premises or part of any premises used for the manufacture or sale of any article of food shall ensure—

Provisions relating to premises and part of premises used for manufacture and sale of food.

- (1) that no sanitary convenience, dustbin or ashpit is contained in, or communicates directly with, or is so placed that offensive odour therefrom penetrates into, such premises or part of such premises;
- (2) that no source of, or receptacle for, the supply of water to such premises or part of such premises communicates directly with a drain, sink or sanitary convenience, or discharges directly into a sanitary convenience, and that there is not in such premises or part of such premises any outlet for the ventilation of any drain or for conveying sewage or foul water into any drain;
- (3) that the roof, ceiling, walls, windows, doors and floor of such premises or part of such premises are kept clean and in good repair;
- (4) that such premises or part of such premises are not used for sleeping purposes;
- (5) that such premises or part of such premises are provided with sufficient and suitable ventilation;
- (6) that no refuse or filth, whether solid or liquid, is permitted to accumulate anywhere in such premises or part of such premises;
- (7) that no waste-matter resulting from any process of manufacture or sale of any article of food is permitted to accumulate in any premises or part of any premises in which such manufacture or sale is carried on except in so far as is unavoidable in the nature of such manufacture or sale; and
- (8) that all articles used in such premises or part of such premises are kept clean, and that all persons employed therein keep themselves and their clothing as clean as may be consistent with the nature of their employment.

25. No person, who is suffering from leprosy, tuberculosis or any other disease which may be notified by the Provincial Government in this behalf, shall manufacture or sell any article of food, or wilfully touch any such article which is for sale by any other person.

Certain diseased person not to manufacture, sell or touch food.

(Sections 26, 27.)

Bye-laws
with respect
to the hand-
ling, wrapping
and deli-
very of food.

26. (1) Subject to the provisions of this Ordinance and the rules, a local authority may, and when so required by the Provincial Government shall, for the local area within its jurisdiction, make bye-laws for the purpose of securing the observance of sanitary conditions and practices in connection with the handling, wrapping and delivery of any article of food which is for sale or for delivery after sale.

(2) In any bye-laws made under sub-section (1), the local authority may provide that any person committing a breach of any of the provisions thereof shall, on conviction by a Court, be punishable with fine which may extend to two hundred rupees and on a second conviction with fine which may extend to four hundred rupees and on a third or subsequent conviction with fine which may extend to one thousand rupees or with imprisonment for a term which may extend to six months or with both.

Bye-laws
with respect
to dairies
and milk
supply.

27. (1) Subject to the provisions of this Ordinance and the rules, a local authority may, and when so required by the Provincial Government shall, for the local area within its jurisdiction, make bye-laws with respect to all or any of the following matters, namely:—

- (a) the registration of dairies, dairymen and persons habitually selling milk;
- (b) the inspection by such local authority, or by any person authorised by it in this behalf, of dairies and dairy cattle from which milk is supplied to the inhabitants of such local area, and of persons having access to such milk or any container thereof;
- (c) the duties to be performed by dairymen and persons selling milk in connection with the occurrence and reporting of infectious or contagious diseases among persons residing or employed in or about their premises or of any disease in dairy cattle which is communicable to man or of any disease of the udder;
- (d) the conveyance and distribution of milk, and the labelling or marking of containers used for such conveyance or distribution;
- (e) the ventilation, lighting, cleansing, drainage and water supply of dairies;
- (f) the health and condition of milch cattle in dairies;
- (g) the cleanliness of containers for milk in, and of persons employed in or about dairies;

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(Sections 28, 29.)

- (h) the protection of milk against infection or contamination;
- (i) the prevention of the sale of infected, contaminated or dirty milk, the prohibition of the sale or distribution of any milk suspected of being infected, contaminated or dirty, the closing of any dairy where such milk is for sale and the exclusion therefrom of any cattle, the milk from which there is reason to believe has conveyed or is likely to convey any infectious disease; and
- (j) any other matter which, in the opinion of the Provincial Government, may be necessary to secure and maintain the purity of milk supply.

Explanation.—In this sub-section, the word “milk” includes milk-products prepared for human food from milk or from anything derived from milk.

(2) In any bye-laws made under sub-section (1), the local authority may provide that any person committing a breach of any of the provisions thereof shall, on conviction by a Court, be punishable with fine which may extend to two hundred rupees and on a second conviction with fine which may extend to four hundred rupees and on a third or subsequent conviction with fine which may extend to one thousand rupees or with imprisonment for a term which may extend to six months or with both.

CHAPTER III. ✓

Analysis of Food. ✓

Sec. 28-33

28. (1) A person who has purchased any article of food shall, on payment of such fee as may be prescribed, be entitled to have a sample of such article analysed or otherwise examined by the public analyst appointed for the area in which the purchase was made, and to receive from such public analyst a certificate in the form provided in the Schedule, specifying the result of the analysis or examination.

Right of purchaser to have article of food analysed or otherwise examined.

(2) No person shall display any such certificate or copy thereof on his premises or use such certificate or copy thereof as an advertisement.

29. (1) Any person authorized in this behalf by the Provincial Government or by a local authority empowered by the Provincial Government for this purpose may, in respect of any article of food or any ingredient used in the manufacture thereof or any substances capable of being so used—

Compulsory sale or surrender of samples of food for analysis or examination.

- (a) which is in the process of manufacture or is for sale or has been kept for use in the manufacture

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(Sections 29, 30.)

of any food, tender the price of such sample of that article, ingredient or substance as may be reasonably requisite for division and disposal under section 30, and may require that the sample be sold to him for the purpose of analysis or bacteriological or other examination;

- (b) which, for the purposes of sale, is in transit or at any place of delivery or storage, demand such sample of that article, ingredient or substance as may be reasonably requisite for division and disposal under section 30, and may require that the sample be surrendered to him for the purpose of analysis or bacteriological or other examination.

(2) Any person having in his possession any article, ingredient or substance in respect of which a requisition is made under sub-section (1), shall sell or surrender, as the case may be, such sample thereof as may be so required.

(3) A person authorized under sub-section (1) may further require that any person having in his possession any article, ingredient or substance in respect of which a requisition is made under that sub-section shall sign a declaration in the prescribed form to the effect that the sample of such article, ingredient or substance which was so required has been so bought and sold or surrendered, as the case may be.

(4) A^a person authorized under sub-section (1) shall for the purposes of this section have right to enter any place through which an article of food passes in transit or any place where an article of food is to be given delivery of or is stored and to inspect any records in any such place.

(5) The price of any sample surrendered under sub-section (2) shall, in accordance with the rules, be payable by the Provincial Government or the local authority to the owner of the article, ingredient or substance from which the sample was surrendered, if the price is claimed by the owner in the prescribed manner and within one month from the date of the surrender.

Procedure
for obtaining
analysis or
examination.

30. A person who intends to have analysed or otherwise examined a sample referred to in section 28 or a sample sold or surrendered under section 29, as the case may be, shall—

- (1) forthwith notify in writing his intention to the person who sold or surrendered the sample;
- (2) divide the sample into three parts, and mark, seal or fasten each part in such manner as may be

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(Sections 31, 32.)

prescribed in presence of the person selling or surrendering the sample;

- (3) (a) in the case of a sample purchased, offer one part to the person who sold the sample, or
- (b) in the case of a sample surrendered, despatched by registered post one part to the consignor whose name and address appear on the container of the article, ingredient or substance sampled, together with a notice of the intention to have the sample analysed or otherwise examined or, if no such name and address appear thereon, retain the aforementioned part;
- (4) retain one part for purposes of future comparison; and
- (5) thereafter submit within seven days one part to the public analyst appointed for the area in which the sample was sold or surrendered.

31. (1) Every public analyst to whom a sample has been submitted under section 30 for analysis or bacteriological or other examination shall—

Duty of public analyst to supply certificate of analysis.

- (a) analyse or examine such sample or cause such sample to be analysed or examined;
- (b) not later than thirty days after the date on which he receives the sample, deliver to the person submitting it a certificate in the form provided in the Schedule, specifying the result of the analysis or examination, as the case may be;
- (c) send a copy of the certificate to the local authority concerned.

(2) For the purpose of computing the period of thirty days referred to in sub-section (1), any day which is a public holiday within the meaning of section 25 of the Negotiable Instruments Act, 1881, shall be excluded.

XVI of 881.

(3) Any document purporting to be a certificate in the form provided in the Schedule and signed by a public analyst shall, in any inquiry, trial or proceeding under this Ordinance, be deemed to be sufficient evidence of the result of an analysis or examination made under this section.

32. Notwithstanding anything contained in section 31 or in any other law for the time being in force, in any inquiry, trial or proceeding under this Ordinance—

Power of Courts to direct analysis.

- (1) the Court, whether exercising its original, appellate or revisional jurisdiction and whether of its own

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(Section 33.)

motion or on the application of the complainant or the accused, may cause any article of food, or ingredient used in the manufacture thereof or substance capable of being so used, to be sent for analysis to the Director of Public Health Laboratory, East Pakistan, or to such other person as the Provincial Government may appoint by general or special order in this behalf;

- (2) the said Director or person, as the case may be, shall analyse the article, ingredient or substance so sent, and shall submit to the Court a report specifying the result of the analysis and also specifying when so called upon by the Court whether any substance or ingredient in any article of food is innocuous or not;
- (3) the said report shall be admissible in evidence in such Court; and
- (4) the cost of such analysis shall be paid by the complainant or the accused, as the Court may direct.

Quarterly reports by local authorities and public analysts.

33. As soon as may be after the last day of March, the last day of June, the last day of September and the last day of December in every year, there shall be submitted to the Provincial Government, in such form as may be prescribed and with respect to the preceding quarter of the year—

- (1) by every local authority, a statement showing, in respect of the local area within its jurisdiction—
 - (a) the number of cases in which samples have been taken,
 - (b) the number of samples found by analysis to be adulterated,
 - (c) the number of cases in which prosecutions for adulteration have been instituted, and
 - (d) the result of prosecutions which have been completed during such quarter; and
- (2) by every public analyst, a statement showing—
 - (a) the number of samples analysed by him, and
 - (b) the result of each analysis.

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(Sections 34, 35.)

CHAPTER IV.

Inspection and Seizure of Food.

34. (1) The Provincial Government may, by general or special order in this behalf, authorize any person to exercise all or any of the powers conferred by this Chapter. Authoriza-
tion of per-
sons and ap-
pointment of
Inspectors.

(2) The Provincial Government, or a local authority with the approval of the Provincial Government may, by general or special order in this behalf, appoint any person to be an Inspector for the purposes of this Ordinance.

(3) No person shall be appointed an Inspector under sub-section (2)—

(a) if he is directly or indirectly engaged in any trade or business connected with the manufacture or sale of any article of food, and

(b) unless he possesses on the date of his appointment such qualifications as may be prescribed.

(4) A person authorized, or an Inspector appointed, under this section shall be deemed to be a person authorized under section 29.

~~35~~ (1) A person authorized, or an Inspector appointed, under section 34 shall, on producing, if so required, such authenticated proof of his authority as may be prescribed, have the right to enter any premises at any hour of the day or night excluding the hours between midnight and day break— Right to
enter pre-
mises.

(a) for the purpose of ascertaining whether there has been, on or in connection with such premises any contravention of any of the provisions of this Ordinance, the rules or the bye-laws;

(b) generally for giving effect to the provisions of this Ordinance, the rules and the bye-laws:

Provided that entry into any premises used solely as a private dwelling-house shall not be demanded as of right unless at least three hours' notice of the intended entry has been given to the occupier of such premises.

(2) No person shall resist or obstruct any entry made under sub-section (1).

(3) In this section, the expression 'premises' includes lands, buildings, vehicles, tents, vans, structures of any kind, streams, lakes, sea-shore, drains, ditches or places open, covered or enclosed,

[E. P. Ord. No. LXVIII

(Sections 36, 37.)

whether built on or not, and whether public or private, and whether natural or artificial, and whether maintained or not under statutory authority, and any vessel lying in any river, harbour or other water not being a port declared under the Ports Act, 1908.

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1908.

Production
of books,
vouchers and
accounts.

36. A person authorised, or an Inspector appointed, under section 34 may by written notice require any person carrying on the trade or business in, or manufacturing or selling, any article of food, to produce before him for inspection all books, vouchers, accounts and other documents relating to such trade, business, manufacture or sale and every person on whom such notice is served shall comply with such requisition.

Power to seize
food believed
to be
adulterated.

37. (1) A person authorised, or an Inspector appointed, under section 34 may, at any time of the day or night excluding the hours between midnight and daybreak, inspect and examine—

- (a) any living thing intended for human food which is, for the purposes of sale, in transit or at any place of delivery or storage or is in any manner for sale,
 - (b) any other food which has been, or is in the process of being, manufactured or is, for the purposes of sale, in transit or at any place of delivery or storage or is in any manner for sale,
 - (c) any ingredient used or kept for use, or any substance capable of being used, in the manufacture of such food, and
 - (d) any container used in connection with the manufacture or sale of such food.
- (2) No person shall resist or obstruct any inspection or examination made under sub-section (1).

(3) If such person or Inspector making an inspection or examination under sub-section (1) has reason to believe that any living thing intended for human food or any other article of food, or any ingredient or substance inspected or examined under that sub-section is unsound, unwholesome or unfit for human food or is adulterated, or that any container used in connection with the manufacture or sale of such food is of such kind or in such state as to render any food manufactured or contained therein unwholesome or unfit for human food, he may seize such living thing or other article of food, ingredient or substance or such container.

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(Sections 37, 38.)

Explanation.—(1) Meat subjected to the process of blowing shall be deemed to be unfit for human food.

(2) A container made of any corrodable metal or material, notified in this behalf by the Provincial Government as dangerous to health, which is used for the preparation of liquid tea for sale shall be deemed to be of the kind referred to in this sub-section.

(4) No person shall resist or obstruct any seizure made under sub-section (3).

(5) When any article, ingredient or substance which is believed to be adulterated is seized under sub-section (3), the person or Inspector seizing it shall forthwith separate therefrom such sample thereof as is reasonably requisite for division and disposal under the provisions of section 30, and shall thereupon divide and dispose of such sample in the manner provided in that section.

(6) When any living thing or other article of food, or any ingredient, substance or container is seized under sub-section (3), the person or Inspector seizing it may—

(a) remove such living thing or other article of food or such ingredient or substance and any container thereof, or

(b) instead of removing it place it in such safe custody as he thinks fit after marking and sealing it in the prescribed manner whenever possible,

in order that it may be dealt with under the provision of section 38 or section 39, as the case may be.

(7) No person shall resist or obstruct any removal made under clause (a) of sub-section (6) and no person shall remove any living thing or other article of food, or any ingredient, substance or container from the custody in which it is placed under clause (b) of sub-section (6), or interfere or temper with it while in such custody.

38. (1) When any living thing or other article of food, or any ingredient, substance or container is seized under sub-section (3) of section 37, it may, with the written consent (witnessed by two other persons) of the owner or the person in whose possession it was found, be forthwith destroyed.

Destruction
of living
things, etc.,
seized under
section 37.

(2) If such consent be not obtained, then if the article, ingredient or substance so seized is of a perishable nature and is in the opinion of the Inspector or the person authorised under section 34, unsound, unwholesome or unfit for human food, it may likewise be destroyed.

(Section 39.)

(3) The expenses incurred in taking any action under sub-section (1) or sub-section (2) shall be realised as public demand from the person in whose possession such living thing or other article of food, ingredient or substance was at the time of its seizure.

Disposal of
articles of
food, ingre-
dients, subs-
tances and
containers
seized.

39. (1) A person authorized, or an Inspector appointed, under section 34 who seizes any living thing or other article of food, or any ingredient, substance or container under sub-section (3) of section 37 shall, when such living thing or other article of food, ingredient, substance or container is not destroyed in pursuance of the provisions of section 38, inform the person from whose possession it is seized that it will be produced before a Magistrate, and shall produce it before a Magistrate as soon as may be after such seizure.

(2) Whether or not any complaint is made under the Pakistan Penal Code or under this Ordinance, if the Magistrate before whom a living thing or other article of food, or any ingredient, substance or container is produced under sub-section (1) considers, after taking such evidence as he may think necessary, that—

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(a) such living thing or other article of food, ingredient or substance is unsound, unwholesome or unfit for human food or is adulterated, or

(b) such container has been used for the manufacture or containing, for the purposes of sale, of any adulterated article, ingredient or substance or has rendered any food manufactured or contained therein unwholesome or unfit for human food,

he shall cause such living thing or other article, ingredient, substance or container to be forfeited to the local authority for the local area in which the seizure took place, and the local authority shall forthwith cause such living thing or other article, ingredient, substance or container to be destroyed or otherwise disposed of in such manner as to prevent it being used for human consumption or for the manufacture or containing, for the purposes of sale, of any article, ingredient or substance, as the case may be.

(3) The Magistrate shall further direct that the cost of the forfeiture, destruction or disposal ordered under sub-section (2) shall be paid by the person from whose possession the living thing or other article of food, ingredient, substance or container was seized, and such cost shall be realized from that person as though it were a fine imposed under this Ordinance.

of 1959.]

(Section 40.)

(4) If, after taking the evidence referred to in sub-section (2), the Magistrate considers that—

- (a) any living thing or other article, or any ingredient or substance, produced before him is not unsound, unwholesome or unfit for human food or is not adulterated, or
- (b) any container produced before him has not been used for the manufacture or containing, for the purposes of sale, of any adulterated article of food, ingredient or substance or has not rendered any food manufactured or contained therein unwholesome or unfit for human food,

he may direct that such living thing or other article, ingredient, substance or container, as the case may be, shall be restored to the person from whose possession it was seized, and may further direct that the local authority for the local area in which the seizure took place shall pay to that person such sum as the Magistrate may fix by way of compensation for any deterioration in the value of such living thing or other article, ingredient, substance or container resulting from its seizure or removal.

CHAPTER V.

Miscellaneous.

40. (1) Subject to the remaining provisions of this section, a prosecution shall be instituted under this Ordinance by a local authority or by any person upon receipt from a public analyst of a certificate, in the form provided in the Schedule, specifying that any sample of any article of food, ingredient or substance sent to him for analysis or examination is adulterated. Institution of prosecution.

(2) No prosecution for any offence under this Ordinance shall be instituted except—

- (a) upon complaint by an individual (other than an Inspector appointed under section 34) who purchased any article of food and received the certificate referred to in sub-section (1) from a public analyst; or
- (b) upon the order in writing of—

(i) in the case where the offence is committed within a Municipality constituted under the Bengal Municipal Act, 1932, or the Assam Municipal Act, 1923, the Chairman or Vice-Chairman or the Commissioners of the Municipality;

ct
of
of

(Sections 40—42.)

(ii) in the case where the offence is committed within the jurisdiction of a District Board, the Chairman or Vice-Chairman of the District Board; and

(iii) in the case where the offence is committed in any other local area, such person or persons as the Provincial Government may authorize by general or special order in this behalf; or

(c) upon complaint by an Inspector appointed under section 34 and authorized by the Director of Health Services or the local authority which appointed him as the case may be, by general or special order in this behalf.

(3) An individual (other than an Inspector appointed under section 34) who purchases any article of food and receives the certificate referred to in sub-section (1) from a public analyst may either institute a prosecution for any offence under this Ordinance himself or report the matter to the local authority within whose jurisdiction the offence is committed and thereupon such local authority shall order a prosecution for such offence or authorize an Inspector appointed under section 34 or direct an Inspector authorized by a general order under clause (c) of sub-section (2) to institute such a prosecution and the Inspector when so authorised or directed shall institute the prosecution.

(4) No prosecution under this Ordinance, which is instituted more than sixty days after the receipt of the certificate referred to in sub-section (1), or more than thirty days after the date of an order given under clause (b) of sub-section (2), shall be maintainable unless the Magistrate is satisfied that, having regard to the circumstances of the particular case, the prosecution could not have been instituted earlier.

Jurisdiction.

41. (1) No Magistrate other than a Magistrate of the first class shall try an offence under this Ordinance.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, a Magistrate of the first class trying an offence under this Ordinance, shall have to impose any sentence provided for in this Ordinance. Act 1898

Certain persons to be deemed to be public servants.

42. Every person authorized under section 29 or section 34, and every Inspector appointed under section 34, shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code.

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of 1959.]

(Sections 43, 44.)

43. No suit, prosecution or legal proceeding whatever shall lie against any person in respect of anything which is in good faith done or intended to be done under this Ordinance, the rules or the bye-laws. Indemnity.

44. Whoever contravenes any provision of this Ordinance mentioned in the first column of the following table shall be punished, for the first offence, with a fine not less than that mentioned in the third column and not exceeding that mentioned in the fourth column of the said table, and for a second or subsequent offence of the same kind with punishment not less than that mentioned in the fifth column and not exceeding that mentioned in the sixth column of that table. Penalties.

Explanation.—The entries in the second column of the following table, headed “subject”, are not intended as definitions of the offences described in the provisions mentioned in the first column, or even as abstracts of those provisions, but are inserted merely as references to the subject thereof.

Provisions of the Ordinance.	Subject.	Fine or imprisonment which may be imposed for a first offence.		Both fine and imprisonment which may be imposed for a second or subsequent offence.	
		<i>Minimum.</i>	<i>Maximum.</i>	<i>Minimum.</i>	<i>Maximum.</i>
1	2	3	4	5	6
Section 6 (I)	Manufacture or sale of food which is adulterated or sale of food which is not of proper nature, substance or quality.	<i>Two hundred rupees or rigorous imprisonment for three months.</i>	<i>Eight hundred rupees or rigorous imprisonment for six months or both.</i>	<i>Two thousand rupees and rigorous imprisonment for six months.</i>	<i>Four thousand rupees and rigorous imprisonment for one year as well as forfeiture of shop or factory including machineries to the local authority.</i>
Sections 7 to 13.	Manufacture or sale of food not of proper standard or purity.	<i>Ditto ..</i>	<i>Ditto ..</i>	<i>Ditto ..</i>	<i>Ditto.</i>
Section 14 (a)	Manufacture or sale of anything resembling any article of food notified under section 7 or specified in sections 8, 9, 10, 11, 12 and 13.	<i>One hundred rupees or rigorous imprisonment for six weeks.</i>	<i>Four hundred rupees or rigorous imprisonment for three months or both.</i>	<i>One thousand rupees and rigorous imprisonment for three months.</i>	<i>Two thousand rupees and rigorous imprisonment for six months as well as forfeiture of shop or factory including machineries to the local authority.</i>
Section 14 (b)	Manufacture or sale of food containing any article of food not of proper standard or purity.	<i>Two hundred rupees or rigorous imprisonment for three months.</i>	<i>Eight hundred rupees and rigorous imprisonment for six months or both.</i>	<i>Two thousand rupees and rigorous imprisonment for three months.</i>	<i>Four thousand rupees and rigorous imprisonment for one year as well as forfeiture of shop or factory including machineries to the local authority.</i>

	ing or permitting the keeping of adulterants in places where food is manufactured or sold.	Two hundred rupees or rigorous imprisonment for three months.	Four hundred rupees or rigorous imprisonment for six months or both.	One thousand rupees and rigorous imprisonment for three months.	Two thousand rupees and rigorous imprisonment for six months as well as forfeiture of shop or manufactory including machineries to the local authority.
Section 16 (3)	Keeping of Guzi (niger seed) in any manufactory, shop or place.	Four hundred rupees or rigorous imprisonment for three months.	Eight hundred rupees or rigorous imprisonment for six months or both.	Two thousand rupees and rigorous imprisonment for three months.	Four thousand rupees and rigorous imprisonment for one year as well as forfeiture of shop or manufactory including machineries to the local authority.
Section 16 (4)	Keeping of white oil except in accordance with a prescribed license.	Ditto ..	Ditto ..	Ditto ..	Ditto.
Section 17 (1)	Sale of diseased animal or unwholesome food.	One hundred rupees or rigorous imprisonment for six weeks.	Four hundred rupees or rigorous imprisonment for six months.	One thousand rupees and rigorous imprisonment for six months.	Two thousand rupees and rigorous imprisonment for one year.
Section 18 (1)	Use of false label ..	Two hundred rupees or rigorous imprisonment for three months.	Four hundred rupees or rigorous imprisonment for six months.	One thousand rupees and rigorous imprisonment for three months.	Two thousand rupees and rigorous imprisonment for six months.
Section 19 (1)	Publication of false advertisement.	Ditto ..	Ditto ..	Ditto ..	Ditto.
Section 20 (3)	Giving of false warranty ..	Five hundred rupees or rigorous imprisonment for six months.	One thousand rupees or rigorous imprisonment for one year.	Two thousand rupees and rigorous imprisonment for six months.	Four thousand rupees and rigorous imprisonment for one year.

Provisions of the Ordinance.	Subject.	Fine or imprisonment which may be imposed for a first offence.		Both fine and imprisonment which may be imposed for a second or subsequent offence.	
		Minimum.	Maximum.	Minimum.	Maximum.
1	2	3	4	5	6
Sections 21(1) and 21 (2).	Use of unregistered premises, failure to register premises or failure to renew registration.	Two hundred rupees or rigorous imprisonment for three months.	Eight hundred rupees or rigorous imprisonment for six months.	Two thousand rupees and rigorous imprisonment for six months.	Four thousand rupees and rigorous imprisonment for one year.
Section 21 (4)	Failure to keep record of consignments despatched, or refusal to permit inspection of record.	Two hundred rupees or rigorous imprisonment for three months.	Four hundred rupees or rigorous imprisonment for six months.	One thousand rupees and rigorous imprisonment for six months.	Two thousand rupees and rigorous imprisonment for one year.
Section 22 ..	Failure to display name and address.	Ditto ..	Ditto ..	Ditto ..	Ditto.
Section 23 ..	Failure to keep in covered receptacles.	Ditto ..	Ditto ..	Ditto ..	Ditto.
Section 24 ..	Failure to keep in proper condition premises or part of premises, or articles or persons employed therein.	Ditto ..	Ditto ..	Ditto ..	Ditto.
Section 25 ..	Manufacturing, selling or touching food when suffering from leprosy, tuberculosis or any other notified disease.	Ditto ..	Ditto ..	Ditto ..	Ditto.

	Refusal to sell or surrender samples of food for analysis or examination.	<i>Four hundred rupees or rigorous imprisonment for three months.</i>	<i>Eight hundred rupees or rigorous imprisonment for six months.</i>	<i>Two thousand rupees and rigorous imprisonment for six months.</i>	<i>Four thousand rupees and rigorous imprisonment for one year.</i>
Section 29 (3)	Refusal to sign a declaration ..	<i>Four hundred rupees or rigorous imprisonment for three months.</i>	<i>Eight hundred rupees or rigorous imprisonment for six months.</i>	<i>Two thousand rupees and rigorous imprisonment for six months.</i>	<i>Four thousand rupees and rigorous imprisonment for one year.</i>
Section 35 (2)	Resisting or obstructing entry of authorised person or Inspector.	<i>Ditto ..</i>	<i>Ditto ..</i>	<i>One thousand rupees and rigorous imprisonment for six months.</i>	<i>Two thousand rupees and rigorous imprisonment for one year.</i>
Section 36 ..	Refusal to comply with requisition to produce books, vouchers, accounts and other documents.	<i>Ditto ..</i>	<i>Ditto ..</i>	<i>Ditto ..</i>	<i>Ditto.</i>
Sections 37 and 37(2)(4).	Resisting or obstructing inspection, examination or seizure by authorised person or Inspector.	<i>Ditto ..</i>	<i>Ditto ..</i>	<i>Ditto ..</i>	<i>Ditto.</i>
Section 37(7)	Resisting or obstructing removal by authorised person or Inspector, or removing, interfering or tampering with article ingredient, substance or container seized and placed in safe custody.	<i>Ditto ..</i>	<i>Ditto ..</i>	<i>Ditto ..</i>	<i>Ditto.</i>

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(Sections 45—48.)

Award of costs.

45. If, in any prosecution under this Ordinance, the Court imposes any penalty provided in this Ordinance, it shall also direct the person upon whom such penalty is imposed to pay to the individual who has made the complaint under sub-section (3) of section 40 or to the local authority concerned such sum towards the costs of the prosecution (including the cost of any analysis or examination made under this Ordinance) as the Court may think reasonable and such sum shall be realized from that person as though it was a fine imposed under this Ordinance.

Power of Provincial Government to suspend performance of duties and exercise of powers by local authorities.

46. (1) If, in the opinion of the Provincial Government, a local authority has shown its incompetence to perform, or has persistently made default in the performance of, any duty imposed, or has exceeded or abused any power conferred, upon it by or under this Ordinance, and such incompetence, default, excess or abuse is to the detriment of the general interests of the consumers of food in the local area within the jurisdiction of such authority, the Provincial Government may, by notification in the *Official Gazette* and after affording the local authority an opportunity of being heard, suspend the performance or exercise by the local authority of that duty or power, as the case may be, for such period as may be specified in the notification, and shall thereupon take such action as it thinks fit for the performance of that duty or the exercise of that power.

(2) The cost of any action taken by the Provincial Government under sub-section (1) shall be paid from the funds of the local authority concerned.

Inconsistency or conflict of provisions of this Ordinance with provisions of other Acts.

47. (1) If, in any area in which this Ordinance is in force, any provision of this Ordinance is inconsistent with any provision of any other Act which is in operation in such area, the provisions of the other Act in their application to such area shall to the extent of the inconsistency be void and the provisions of this Ordinance shall prevail.

(2) If any difficulty arises owing to the conflict of any provision of this Ordinance with any provision of any other Act, the Provincial Government may by order do anything or authorize any matter or thing to be done which may be necessary to remove such difficulty or to give effect to the provisions of this Ordinance.

Bye-laws to be subject to confirmation by the Provincial Government.

48. (1) No bye-law made by any local authority under this Ordinance shall take effect unless and until it is submitted to and confirmed by the Provincial Government.

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(Section 49.)

(2) Such bye-laws shall not be confirmed—

(i) unless one month at least before the making of the application, notice of the intention to apply for confirmation has been given in one or more of the local newspapers circulated within the local area to which such bye-laws relate or if there be no such newspapers then in such manner as the local authority concerned may direct, and

(ii) unless for one month at least before such application a copy of the proposed bye-laws has been kept at the office of the local authority concerned and has been opened during office hours thereof to the inspection of the inhabitants of the local area to which such bye-laws relate without fee.

(3) Printed copies of such draft bye-laws shall be supplied by the local authority to any person requiring the same on payment of four annas for every hundred words contained in the copy.

(4) Before confirming any bye-law, the Provincial Government may modify it.

(5) The Provincial Government may rescind any bye-law which it has confirmed and thereafter the bye-law shall cease to have effect.

49. (1) The Provincial Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Ordinance.

Power of
Provincial
Government
to make
rules.

(2) In particular, and without prejudice to the generality of the foregoing power, the Provincial Government may make rules to provide for all or any of the following matters:—

(i) the qualifications, salary and conditions of appointment of public analysts appointed under section 4;

(ii) the normal constituents and the values of the chemical and physical constants of any article of food referred to in clause (a) of sub-section (1) of section 5 and the deficiencies in, or additions to, any article of food which are to raise the presumption that such article is adulterated referred to in clause (b) of that sub-section ;

(iii) for the purposes of sections 7 to 13, the manner in which containers of skimmed, condensed, sterilized or desiccated milk shall be labelled and marked, the proportion of the constituents of milk to be contained in skimmed, condensed,

(Section 49.)

sterilized or desiccated milk, the proportion of water that may be contained in butter, and the conditions to be fulfilled in the case of *ghee* (that is to say, clarified milk fat), wheat, flour (that is to say, *maida*, *atta* or *suji*), mustard or rape seed oil and any other article of food notified under section 7 ;

- (iv) the form, manner and conditions of licence under sub-section (4) of section 16 ;
- (v) the manner in which, and the date by which, premises shall be registered under section 21, the manner in which, and the date by which, renewal of such registration shall be effected, the fee payable for such registration and renewal, the manner and form in which applications for registration and renewal thereof shall be made, the manner of maintaining records of registrations and renewals, and the form of such record ;
- (vi) the form in which records of the despatch and destination of consignments shall be maintained under sub-section (4) of section 21 ;
- (vii) the fee payable under section 28 for the analysis or examination of any article of food ;
- (viii) the form of the declaration to be signed under sub-section (3) of section 29, the manner in which applications may be made for payment under sub-section (5) of that section and the cases in which payment is to be made by the Provincial Government or by the local authority ;
- (ix) the manner in which the parts of samples shall be marked, sealed or fastened after division under clause (2) of section 30 ;
- (x) the form of the statements to be submitted under section 33 ;
- (xi) the qualifications to be possessed by persons for appointment as Inspectors referred to in clause (b) of sub-section (3) of section 34 ;
- (xii) the authenticated proof of authority to be produced under sub-section (1) of section 35 ; and
- (xiii) the manner in which anything seized under section 37 shall be marked and sealed before placing it in safe custody referred to in clause (b) of sub-section (6) of that section.

1959.]

(The Schedule.)

THE SCHEDULE.

FORM OF CERTIFICATE.

(See sections 28 and 31.)

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I, the undersigned, public analyst for the.....
, do hereby certify that I received on the.....
day of.....19....from².....
 a sample of.....for ^{analysis}
~~examination~~ (which then
 weighed³.....and marked⁴.....
 and that said sample has been ^{analysed}
~~examined~~, and I declare the result
 of the ^{analysis}
~~examination~~ to be as follows :—

I am of opinion that the sample is a sample of.....

Observations⁵.

Signed this.....day of.....

A. B.

at

¹Here insert the name of the person submitting the sample for analysis or examination.

²Here insert the name of the person delivering the sample. If the sample is received by post or railway, an entry should be made accordingly.

³When the sample cannot conveniently be weighed, this entry need not be filled up.

⁴When no mark was given to the sample, this entry need not be filled up.

⁵Here the public analyst may record such opinions as he thinks fit and, in the case of a certificate relating to milk, butter or any other article liable to decomposition, shall record his opinion as to whether any change has taken place in the constitution of the sample that has interfered with the analysis or examination.

THE DHANMANDAI RESIDENTIAL ZONE (TERMINATION OF LEASE) ORDINANCE, 1959.

[7th December, 1959.]

WHEREAS the Provincial Government have leased out plots of Dhanmandai Residential Area to the tenants on terms and conditions set forth in the Standard Agreement for Dhanmandai Residential Area ;

AND WHEREAS it is provided in the Indenture of Agreement executed by the tenants that the construction of houses, out-houses and appurtenances on the demised property shall be made within 2 years from the date of commencement of the lease or within such further time as the Provincial Government may allow in its discretion;

AND WHEREAS it is further provided that on the failure of the tenant to complete the construction of house, out-houses and appurtenances within the aforesaid period or within such time as the Provincial Government may allow, the lease shall be liable to be terminated by the Provincial Government and on such termination, the tenant shall surrender the demised property to the Provincial Government forthwith ;

AND WHEREAS some such tenant has obtained allotment of more than one plot in the name of his wife, husband or children ;

AND WHEREAS it is expedient to remove any doubt as to the power of the Provincial Government to terminate any such lease and to take over possession of the demised property for failure of the tenant to complete the construction within the period stipulated in the Indenture of Lease and for allotment of more than one plot in the family;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the seventh day of October, 1958, and in exercise of all powers enabling him in that behalf, the Governor of East Pakistan is pleased to make and promulgate the following Ordinance, namely :—

1. (1) This Ordinance may be called the Dhanmandai Residential Zone (Termination of Lease) Ordinance, 1959.

(2) It shall come into force at once.

[E. P. Ord. No. LXXVI of 1959.]

(Section 2.)

Bar's juris-
diction of
Civil Courts.

2. When the Provincial Government terminates any lease in respect of any plot in the Dhanmandai Residential Area, on the failure of the tenant to complete the constructions of the houses, out-houses and appurtenances within the period stipulated in the Indenture of Lease and for allotment of more than one plot in the family and takes possession of the same, no suit or proceeding of any kind whatsoever shall lie or be proceeded with in any Court to challenge the validity of any such order of termination of the lease and taking over possession of the demised property on the termination of such lease.

Explanation—‘Family’ means husband, wife and children.

East Pakistan Ordinance No. LXXVIII of 1959.

THE FOREST (EAST PAKISTAN AMENDMENT)
ORDINANCE, 1959.

[21st December, 1959.]

An Ordinance to amend the Forest Act, 1927.

Act XVI of 1927. WHEREAS it is expedient to amend the Forest Act, 1927, for the purpose and in the manner hereinafter appearing ;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the seventh day of October, 1958 and in exercise of all powers enabling him in that behalf, the Governor is pleased to make and promulgate the following Ordinance, namely :—

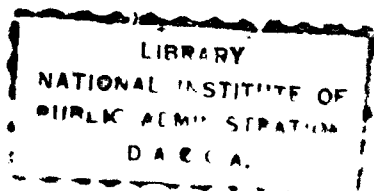
1. (1) This Ordinance may be called the Forest (East Pakistan Amendment) Ordinance, 1959, Short title and commencement.

(2) It shall come into force at once.

2. The Forest Act, 1927 (hereinafter referred to as the said Act) shall be amended in the manner hereinafter provided. Amendment of Act XVI of 1927.

3. In sub-section (1) of section 52 of the said Act, for the word "carts" the word "vehicles" shall be substituted. Amendment of section 52 of Act XVI of 1927.

4. In sub-section (1) of section 55 of the said Act, for the word "carts" the word "vehicles" shall be substituted. Amendment of section 55 of Act XVI of 1927.



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LIBRARY
Bangladesh Public Administration
Training Centre
Savar, Dhaka

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