



The Bengal Alluvion (Amendment) Act, 1868

Act 4 of 1868

Keyword(s):

Island, Gradual Accession, Disposal, Newly thrown up Island

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Bengal Act IV of 1868

[THE BENGAL ALLUVION (AMENDMENT) ACT, 1868.]¹

SUPPLEMENTED	..	Ben. Act V of 1920.
SHORT TITLE GIVEN	..	Act I of 1903.
REPEALED IN PART	..	Act XII of 1873.
AMENDED	..	Ben. Act I of 1939.
ADAPTED	..	(a) The Government of India (Adaptation of Indian Laws) Order, 1937.
		(b) The Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.
		(c) The Adaptation of Laws Order, 1950.

[8th July, 1868.]

IX of 1847. *An Act to amend the provisions of²[the Bengal Alluvion and Diluvion Act, 1847.]*

WHEREAS it is expedient to amend the provisions of Act IX of 1847; It is enacted and declared as follows:—

Preamble.

1. [Repeal of section 7 of Act IX of 1847.]—*Rep. by the Repealing Act, 1873 (XII of 1873).*

2. It is hereby declared that when any islands shall, under the provisions of clause 3, section 4, of Regulation XI of 1825³ of the⁴[West Bengal] Code, be at the disposal of⁵[the Government] all lands gained by gradual accession to such island, whether from a recess of the river or of the sea, shall be considered an increment to such island, and shall be equally at the disposal of⁶[the Government].

Accessions to island considered increment thereto.

¹SHORT TITLE.—This short title was given by the Amending Act, 1903 (I of 1903).
²LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see the *Calcutta Gazette* of 1868, page 508, and for Proceedings in Council, see *ibid.* Supplement, 1361, pages 253; 337, 362, 372 and 388.

³LOCAL EXTENT.—The local extent of this Act appears to be the same as that of the Act IX of 1847.

⁴These words and figure were substituted for the words, figures and brackets "Act IX of 1847 (an Act regarding the assessment of lands gained from the sea or from rivers by alluvion or dereliction within the provinces of Bengal, Bihar and Orissa)" by s. 2 and the First Schedule of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

⁵The Bengal Alluvion and Diluvion Regulation, 1825.

⁶Substituted for the word "Bengal" by para. 3(2) of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

⁷The words "the Crown" were first substituted for words "the Government" by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "Government" was substituted for the word "Crown" by para. 4(1) of the Adaptation of Laws Order, 1950.

(Sections 3-5.)

Newly
thrown up
islands to be
assessed.

3. Whenever it shall appear to the local revenue-authorities that an island has been thrown up in a large and navigable river liable to be taken possession by ¹[the Government] under clause 3, section 4, of Regulation XI of 1825² of the ³[West Bengal] Code, the local revenue-authorities shall take immediate possession of the same for ¹[the Government] and shall assess and settle the land according to the rules in force in that behalf, reporting their proceedings forthwith for the approval of the Board of Revenue, whose order thereupon, in regard to the assessment, shall be final:

Provided, however, that any party aggrieved by the act of the revenue-authorities in taking possession of any island as aforesaid shall be at liberty to contest the same by a regular suit in the Civil Court.

Subsequent
junction to
mainland not
to affect
Government
right.

4. Any island of which possession may have been taken by the local revenue-authorities on behalf of ¹[the Government] under section 3 of this Act shall not be deemed to have become an accession to the property of any person by reason of such channel becoming fordable after possession of such island shall have been so taken.

Power to
apply for
ways across
islands.

5. Whenever an island, of which possession shall have been taken ⁴[by the Government] under section 3 of this Act, shall become attached to the mainland, any person having an estate or interest in any part of the riparian mainland to which such island may become attached while it is in the possession ⁵[of the Government¹] may apply to the Collector to take measures for the construction of ways, paths and roads on the island: the costs thereof to be equally divided between the applicant ⁶[and the State Government].

¹See foot-note 5 on page 129, *ante*.

²See foot-note 3 on page 129, *ante*.

³See foot-note 4 on page 129, *ante*.

⁴The words "by the Crown" were first substituted for the words "by Government" by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "Government" was substituted for the word "Crown" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁵The words "of the Crown" were first substituted for the words "of the Government" by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "Government" was substituted for the word "Crown" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁶The words "and the Provincial Government" were first substituted for the words "and the Government" by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

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(Sections 6-8.)

6. Thereupon the Collector may require the applicant to make such deposit of money as to the Collector shall seem sufficient, and, on such deposit being made, the Collector shall proceed to lay out and construct such ways, paths and roads in and through the island as he may deem necessary for securing access to the river or sea from the land to which the island may have become attached.

Applicant for ways to deposit money, and ways to be made.

7. In every case the applicant shall be liable to pay and make good to the ¹[State Government] one-half of the costs of laying out and construction such ways, paths and roads as aforesaid, and any moneys due from the applicant under the provisions of this section may be deducted and retained by the Collector out of the deposit so made by the applicant as aforesaid.

Costs of ways how borne.

8. Every way, road and path, which shall be laid out or appointed under the provisions aforesaid, shall be deemed a public highway.

Ways to be public.

¹The words "the Provincial Government" were first substituted for the word "Government" by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.