



The Bengal Ports Act, 1867

Act 3 of 1867

Keyword(s):

Appropriate Government, Master, Port, Magistrate, Municipal Town

DISCLAIMER: This document is being furnished to you for your information by PRS Legislative Research (PRS). The contents of this document have been obtained from sources PRS believes to be reliable. These contents have not been independently verified, and PRS makes no representation or warranty as to the accuracy, completeness or correctness. In some cases the Principal Act and/or Amendment Act may not be available. Principal Acts may or may not include subsequent amendments. For authoritative text, please contact the relevant state department concerned or refer to the latest government publication or the gazette notification. Any person using this material should take their own professional and legal advice before acting on any information contained in this document. PRS or any persons connected with it do not accept any liability arising from the use of this document. PRS or any persons connected with it shall not be in any way responsible for any loss, damage, or distress to any person on account of any action taken or not taken on the basis of this document.

©

Bengal Act III of 1867

(THE BENGAL PORTS ACT, 1867.)¹

SHORT TITLE GIVEN	..	Act I of 1903.
REPEALED IN PART	..	Act XII of 1873.
	..	Act XII of 1875.
ADAPTED	..	Act I of 1903.
	..	(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.

[10th April, 1867.]

An Act to amend the law relating to ships lying in ports ²[in the States or parts of States corresponding to the Provinces which were on the tenth day of April, 1867] under the control of the Lieutenant-Governor of Bengal.³

WHEREAS it is expedient to amend the law relating to merchantships lying in ports ²[in the States or parts of States corresponding to the Provinces which were on the tenth day of April, 1867] under the control of the Lieutenant-Governor of Bengal³;

Preamble.

It is enacted as follows:—

1. The following words and expressions for the purposes of this Act have the meanings hereby assigned to them, unless where a contrary intention appears from the context, that is to say:—

Interpretation.

⁴[the words "appropriate Government" mean, in relation to a port which is a major port within the meaning of the Indian Ports Act, 1908, the Central Government, and in relation to any other port, the State⁵ Government];

¹SHORT TITLE.—This short title was given by the Amending Act, 1903 (I of 1903), LEGISLATIVE PAPERS.—For Statement of Objects and Reasons see the *Calcutta Gazette*, 1866, page 2193.

LOCAL EXTENT.—This Act applies to all ports in the former Province of Bengal which are subject to the provisions of the Indian Ports Act, 1908 (XV of 1908)—see the title and preamble, and the definition of "port" in section 1.

²Substituted for the words "in the Provinces" by para. 3 and the Eleventh Schedule of the Adaptation of Laws Order, 1950.

³This includes the present State of West Bengal and other territory.

⁴This definition was inserted by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁵The word "State" was substituted for the word "Provincial" by para. 4(i) of the Adaptation of Laws Order, 1950.

(Section 2.)

"Master."	the word "master" denotes any person having temporary or permanent command or charge of any vessel otherwise than in the capacity of pilot or harbour-master;
"Owner."	the word "owner" includes any agent acting for and on behalf of the owner of a ship at the port at which such ship shall lie or be;
"Port."	the word "port" denotes any port within the ¹ [States] aforesaid subject to the provisions of Act XXII of 1855 (<i>for the regulation of ports and port-dues</i>). ²
"Magistrate."	the word "Magistrate" includes any officer exercising any of the powers of a Magistrate under the Code of Criminal Procedure, ³ and any Magistrate of Police for the town of Calcutta;
"Municipal town."	the expression "municipal town" denotes the town of Calcutta and every town, suburb, station, <i>bazar</i> , village and tract of country to which the provisions of Act III of 1864 ⁴ (<i>the District Municipal Improvement Act</i>), passed by the ⁵ [Lieutenant-Governor of Bengal in Council], have been or shall be extended;

Act XXV of 1861.

* * * * *

Penalty for not having sufficient crew on vessels lying in port.

2. If any vessel of more than ten tons burden shall, without such license as hereinafter is mentioned, be afloat in any port within the ⁷[territories to which this Act extends], without having on board thereof a crew of not less than the number set forth in the First Schedule hereto, the master of such vessel, and in case there shall be no master of such vessel then the owner thereof, shall be punished with a fine not exceeding five hundred rupees.

¹Substituted for the word "Provinces" by para. 4(1) of the Adaptation of Laws Order, 1950.

²Act XXII of 1855 was repealed and re-enacted by the Indian Ports Act, 1875 (XII of 1875), and the latter Act was repealed and re-enacted by the Indian Ports Act, 1889 (X of 1889), which again has been repealed and re-enacted by the Indian Ports Act, 1908 (XV of 1908). The reference in the text to Act XXII of 1855 should now be construed as a reference to Act XV of 1908.

³Act XXXA of 1861 was repealed and re-enacted by Act X of 1872, which again was repealed and re-enacted by Act X of 1882. The Act of 1882 has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (Act V of 1898). This reference should now be taken to be made to the last mentioned Code—*see* section 3 thereof.

⁴Ben. Act III of 1864 was repealed and re-enacted by Ben. Act V of 1876, which was repealed and re-enacted by Ben. Act III of 1884, which again has been repealed and re-enacted by the Bengal Municipal Act, 1932 (Ben. Act XV of 1932). The reference in the text should now be taken to be made to Ben. Act XV of 1932.

⁵This expression stands unmodified—*vide* para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁷The "number" Clause in respect of words denoting the plural or singular number, was repealed by s. 4 and the Third Schedule of the Amending Act, 1903 (I of 1903).

⁸Substituted for the words "Provinces under the control of the Provincial Government of Bengal" by para. 3(1) and the Schedule of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

of 1867.]

(Sections 3-8.)

3. Whenever it shall appear to the Conservator of any port that any vessel in such port may, without danger to other vessels in such port, be afloat without such crew as hereinbefore is mentioned being maintained thereon, it shall be lawful to such Conservator, if he shall think fit, to grant under his hand a license in the Form A in the Second Schedule hereto, which license may be made determinable on the breach of any conditions therein contained; and during the continuance of such license the provisions of section 2 of this Act shall not apply to such vessel.

Power to exempt from maintaining crew on particular ships.

4. It shall be lawful for such conservator, by any writing under his hand in Form B in the Second Schedule hereto, to revoke such license; and, from and after the publication of such revocation, by posting a copy thereof upon some conspicuous part of such vessel, the provisions of section 2 of this Act shall apply to such vessel and to the master and owner thereof as if no such license had ever been granted.

Power to revoke exemption.

5. Whenever it shall appear to the Conservator of any port that any creek, river or dock is so situate that vessels without any crew therein may remain afloat in such creek, river or dock without danger to any vessels in any part of such port, it shall be lawful for such Conservator to make an order in the Form C in the Second Schedule hereto, and from time to time, if he shall think fit, to revoke or amend such order:

Power to make order with respect to portions of ports.

Provided always that every such order, amendment and revocation shall be published in the ¹{*Official Gazette*}, and that no such order, amendment or revocation shall have any force or effect until it shall have been so published.

6. During such time as any such order shall remain in force the provisions of section 2 of this Act shall not apply to any vessel lying or being within the limits of any such creek, river or dock, as the same shall be defined by such order.

Application of section 2 to certain ships.

7. [*Penalty on master omitting to take order to extinguish fire.*—*Rep. by the Indian Ports Act, 1875 (XII of 1875).*]

8. It shall be lawful for ²{the appropriate Government} to order (if and when ³{it} shall ⁴** * (think fit) that the entire or any portion of the expense of maintaining the police-force in any port which may be within or abutting upon any municipal town shall be borne by and paid out of the port-fund of such port.

Power to charge port-police upon port-fund.

¹These words were substituted for the words "*Calcutta Gazette*" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

²These words were substituted for the words "the Lieutenant Governor of Bengal" by para. 3 and Sch. IV, *ibid.*

³This word was substituted for the word "he" by paragraph 5(2), *ibid.*

⁴The words "in his discretion" were omitted by para. 3 and Sch. IV, *ibid.*

(Sections 9-16.)

Power to charge upon port-fund portion of expense of municipal police.

9. It shall be lawful for ¹[the appropriate Government] from time to time, to assign to the persons charged with the management of the municipal fund of any municipal town upon which any port may be abutting, or within which any port may be, such annual sums to be charged upon and payable out of the port fund of such port as to ²[it] shall seem just and reasonable for or towards re-imbursing to such municipal fund such portion of the expense of the police-force in such town as may, in the opinion of ¹[the appropriate Government], be rendered necessary by the resort to such town of seamen from ships lying or being in such port.

Power to impose police-port-dues.

10. In case the port-fund of any port shall, after providing for the payment of all sums and charges now by law payable out of such port-fund be insufficient to pay any expense of police and annual sums which shall, under the provisions aforesaid, be payable thereout; it shall be lawful for ¹[the appropriate Government] and ³[it] is hereby required to order that there shall be paid, in addition to all port-dues and charges payable in respect of any ship from time to time lying or being in such port, such port-dues, to be called police-port-dues, as shall thereunto be necessary:

Provided that the same shall not exceed the port-dues in that behalf mentioned in the Third Schedule to this Act.

11 to 13. [*Imposition and application of hospital port-dues: power to refuse port clearance till expenses under Merchant Shipping Act, 1854, s. 228, are paid*].—*Rep. by the Indian Ports Act, 1875 (XII of 1875).*

Power to compound port-dues.

14. It shall be lawful for the owner of any vessel to pay to the Conservator of any port three times the amount of the police-port-dues and hospital-port-dues which would, for the time being, be payable in respect of such vessel, and thereby to discharge such vessel from all further police-port-dues and hospital-port-dues in such port for the space of twelve calendar months from the day of the date of such payment.

Power to vary port-dues.

15. It shall be lawful for ¹[the appropriate Government] from time to time, to vary the rate of police-port-dues ³** * * payable in any port, as to ²[it] ⁵* * * shall seem fit, so as that the same shall not exceed the rates in the Third Schedule ⁶** set forth.

Imposition or increase of port-dues to be published.

16. No order of ¹[the appropriate Government], imposing or increasing any port-dues under this Act, shall take effect until the expiration

¹These words were substituted for the words "the said Lieutenant-Governor of Bengal" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

²This word was substituted for the word "him" by paragraph 5(2), *ibid.*

³See foot-note 3 on page 121, *ante.*

⁴The words "and hospital port dues" were repealed by s. 4 and the Third Schedule of the Amending Act, 1903 (I of 1903).

⁵See foot-note 4 on page 121, *ante.*

⁶The word "respectively" was repealed by s. 4 and the Third Schedule of the Amending Act, 1903 (I of 1903).

of 1867.]

(Sections 17-20 and the First Schedule.)

of six calendar months from the day upon which such order shall have been published in the ¹[*Official Gazette*.]

17. All complaints as to offences against this Act shall be heard and determined by a Magistrate within whose local jurisdiction the offence may be alleged to have been committed ²* * *.

Recovery of penalties.

18. All penalties levied under this Act shall be applied as fines received under the said Act XXII of 1855³ are directed to be applied.

Penalties how disposed of.

19. This Act shall be construed together with and as part of the said Act XXII of 1855³.

Construction.

20. [*Commencement of Act.*—*Rep. by the Repealing Act, 1873 (XII of 1873).*]

THE FIRST SCHEDULE.

(Referred to in section 2.)

	If Natives.	If Euro- peans.	Officers in charge.
Cargo boats	4	4	0
Vessels, not being cargo-boats, of 600 tons and under, in moorings.	6	4	1
For every additional 100 tons	$\frac{1}{2}$	1	0
Vessels not being cargo-boats of 600 tons and under, in stream.	11	$7\frac{1}{2}$	1
For every additional 100 tons	2	1	0

¹These words were substituted for the words "*Calcutta Gazette*" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order 1937.

²The remainder of section 17 (relating to the recovery of fines), commencing with the words "and the provisions", where they first occur, to the end, was repealed by s. 4 and the Third Schedule of the Amending Act, 1903 (1 of 1903).

³See foot-note 2 on page 120, *ante*.

(The Second and the Third Schedules.)

THE SECOND SCHEDULE.

(Referred to in sections 3, 4 and 5.)

FORM A.

Port of ()
 I () Conservator of the Port of
 do hereby license the (*ship*) of which is master,
 to remain at his present moorings, in the said port, without having on board
 the crew required by Act III of 1867 of the ¹[Lieutenant-Governor of
 Bengal in Council:]

Provided always that, on breach of any of the conditions hereunder
 written, this license shall forthwith absolutely cease and determine.

FORM B.

Port of ()
 I () the Conservator of the Port of
 do hereby revoke all license to the (*ship*) to remain
 in port without a crew therein.

FORM C

Port of ()
 I () the Conservator of the Port of
 do hereby order that vessels lying in the following portion of the said
 port (*here set out the exempted limits*) shall be exempt from the provisions
 of the second section of Act III of 1867 passed by the ¹[Lieutenant-
 Governor of Bengal in Council.]

THE THIRD SCHEDULE.

(Referred to in section 10 ²* * * and 15.)

PORT-DUES.

Police-port-dues.

For every vessel entering any port, two *annas* per ton.

¹* * * * *

¹See foot-note 5 on page 120, *ante*.

²The figure "11" was repealed by s. 4 and Schedule III of the Amending Act, 1903 (1 of 1903).

³The provisions "Hospital Port-dues. For every vessel entering any port, one *anna* per ton" were repealed by s. 4 and Third Schedule of the Amending Act, 1903 (1 of 1903).