
Act 8 of 1935

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THE KASHMIR VALLEY EMBANKMENT ACT, 1992 (1935 A.D.)

Act No. VIII of 1992

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THE KASHMIR VALLEY EMBANKMENT ACT, 1992 (1935 A.D.)

Act No. VIII of 1992

[Received assent of His Highness the Maharaja Bahadur on 6th December, 1935/21st Magher, 1992, and published in Government Gazette dated 12th Poh, 1992.]

Preamble.—Whereas it is necessary to make provisions for the proper supervision, maintenance and control of embankments in the Kashmir Valley; It is enacted as follows:—

1. Title, commencement and extent.—This Act shall be called the Kashmir Valley Embankment Act, 1992 and shall come into operation on 2nd day of January, 1936, It shall be applicable to the area comprising of the bed and both sides of the Jhelum
river from Harnag Village—Khannabal to Khadanyar and also to the connected Nallahs, Nambals and lakes.

The provisions of the Act may be extended to such other area as the Minister-in-charge of the 1 [Irrigation (P.W.) Department] may deem fit.

2. Repeal.—From the date when this Act comes into force all rules and orders previously issued regarding matters dealt with in this Act shall be repealed so far as they are contrary to the provisions of this Act.

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

(a) "embankment" means an embankment for the purpose of excluding or retaining water and includes every embankment which is now kept up or may hereafter be kept up by the Government at the expense either of the Government or of any private person;

(b) "Engineer-in-charge Hydraulic Works" includes an Assistant Engineer authorized by the Government to exercise administrative and financial powers of the Engineer-in-charge.]


(1) cause any embankment which adjoins or connects public embankments or forms by junction with them part of a line of embankments, or is necessary for the protection of the neighbouring land, to be taken charge of and kept up by the Government;
(2) cause any private embankment or other structure which endangers the stability of a public embankment or obstructs the beneficial drainage of the country to be removed;

(3) change, when necessary, the line of any public embankment or make a new embankment;

(4) enlarge any public embankment after acquiring land, if necessary, under the Land Acquisition Act of 1990 and do all acts necessary and proper for the maintenance thereof;

(5) forbid raising of or alterations to an embankment;

(6) allow the construction of a private embankment of approved plan and design within a specified period;

(7) enter upon any land and use it to control a flood or breach of an embankment.

5. Control of bed and banks.—(1) The control of the bed and banks of the river and city channels including the Dood Ganga Nallah and the flood spill channel together with all works that affect the hydraulic conditions shall be under the 1 [Irrigation (P.W.) Department.]

(2) No plantation in the bed or on the banks of the river and channels shall be authorized except under special circumstances by the 1 [Irrigation (P.W.) Department.]

(3) No excavation of any kind shall be made by any person in the bed or on the banks of the river and channels except with the previous permission of 2 [Engineer-in-charge Hydraulic Works] and on payment of such royalty and such rate as may be prescribed in this behalf by the Government, 3 [(4) No buildings, railings or platforms
shall be constructed on the slopes of public or private embankments of the rivers and channels:

Provided that the Chief Engineer, or such other officer as may be specially authorized by him in this behalf, may accord permission to the construction of railings or platforms on any such slopes of public or private embankments subject to the conditions specified in sub-section (5):

Provided further that in the case of constructions on any such public embankment, the Chief Engineer shall fix a rent for the use of the land occupied by such constructions.

(5) (i) A person putting up railings or constructing a platform in pursuance of permission granted under sub-section (4) shall maintain properly and keep in good state and repair the slopes of the bund on which such railings or platforms are constructed.

(ii) The officials of the Irrigation (P.W.) Department shall have access at all times to such slopes for purposes of inspection and repair.

6. Traffic on bunds.—No vehicular traffic shall be allowed on bunds except with the permission of the Engineer-in-charge Hydraulic Works.

Power to remove obstruction.—(1) No person shall encroach on or cause obstruction to an embankment or slope thereof. (2) The Engineer-in-charge Hydraulic Works or any other person authorized by the Government in that behalf may issue an order to the person making encroachment or causing obstruction or having control over any such encroachment or obstruction, to remove or modify the same within a time to be specified in the order.

(3) If within the time so specified such person does not comply with the order, the Engineer-in-charge Hydraulic Works or any person authorized by him in that behalf may remove or modify such encroachment or obstruction; and if the person to whom the order was issued does not, when called upon, pay the expenses involved in such removal or modification, such expenses shall be recoverable from him as arrears of land-revenue.
(4) In removing or modifying the encroachment or obstruction the Engineer-in-
charge Hydraulic Works may, if necessary, requisition the help of the Police.

7. **Penalty for obstructing officer in discharge of duty for breach of the provisions of the Act.**—Whoever infringes any of the provisions of this Act 1 [or disobeys any order made thereunder] shall be liable to imprisonment for any period not exceeding three months or to fine not exceeding Rs. 100 or both in each case.

8. **Penalty for wilful damage to embankment by cutting, etc.**—Whoever cuts through or attempts to cut through without due authority any public embankment or opens any sluice water-course or drain through an embankment or stops any opening made by the 2 [Irrigation (P. W.) Department,] shall be liable on conviction before a 3 [Judicial Magistrate] of the first class to imprisonment for a period not exceeding six months or to fine not exceeding Rs. 200 or both in each case,

9. **Appeals**—Appeals against orders passed under this Act shall lie to the Minister-in-charge of the 2[Irrigation (P.W.) Department.]

4 [10. Excavation in lands.**—It shall be lawful for the Irrigation (P. W.) Department to make excavations in lands held by the zamindars up to a depth of one foot and remove the earth so excavated therefrom for the purpose of construction and maintenance of an embankment.

11. **Special measures when danger of flood.**—(1) Whenever it appears to the Government that it is necessary to take measures for the purpose of protecting life and property from the danger caused or threatened to be caused by floods in any area or locality, the Government may make a direction requiring all owners and occupiers of land in such area or locality to carry out such measures and for such period as may be specified in the said direction.
(2) During the period specified in the direction referred to in sub-section (1) any officer authorized by the Government in this behalf may by a general or special order require a Tehsildar of the Tehsil, or a lambardar of the village specified in such direction to furnish as many labourers as to the said officers seems necessary and such labourers shall be paid wages at such rates as shall be equal to the rates for the time being paid in the neighbourhood for similar work.

(3) When any requisition has been made on a Tehsildar or a lambardar under sub-section (2) every labourer ordinarily residing within the Tehsil or village shall be liable to supply and to continue to supply his labour for the purposes it is requisitioned.

12. Protection from suit or prosecution.—No suit or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or order thereunder.

13. Power to make rules.—The Government may make rules for the purposes of carrying into effect the provisions of this Act I Sections 10, 11, 12 and 13 added by Act XXXV of 1956.