The Bengal Ports Act, 1867

Act 3 of 1867

Keyword(s):
Appropriate Government, Master, Port, Magistrate, Municipal Town
Bengal Act III of 1867
(The Bengal Ports Act, 1867) 1

Short title given
Act I of 1903.
Act XII of 1873.
Act XII of 1875.
Act I of 1903.

Repealed in part
(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.

Adapted

[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 Bengal 4;

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:—

[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 State 5 Government];

Preamble.

Interpretation.

1 Short title.—This short title was given by the Amending Act, 1903 (1 of 1903).
Legislative papers.—For statement of objects and reasons see the Calcutta Gazette,
1866, page 2193.

2 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.

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

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

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

6 The word “State” was substituted for the word “Provincial” by para. 4(4) of the
Adaptation of Laws Order, 1950.
The Bengal Ports Act, 1867.

(Section 2.)

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;

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;

the word "port" denotes any port within the [States] aforesaid subject to the provisions of Act XXII of 1855 (for the regulation of ports and port-dues).

the word "Magistrate" includes any officer exercising any of the powers of a Magistrate under the Code of Criminal Procedure, and any Magistrate of Police for the town of Calcutta;

the expression "municipal town" denotes the town of Calcutta and every town, suburb, station, bazar, village and tract of country to which the provisions of Act III of 18641 (the District Municipal Improvement Act), passed by the [Lieutenant-Governor of Bengal in Council], have been or shall be extended;

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 [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.

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

1Act 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.

1Act XXA 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.

1Ben. 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.

1This expression stands unmodified—vide para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

1The "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).

1Substituted 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 Punjaban Actors) Order, 1948.
The Bengal Ports Act, 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.

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.

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:

Provided always that every such order, amendment and revocation shall be published in the *[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 may 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.

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 *the appropriate Government* to order (if and when *it* shall *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.

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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*. 

Power to exempt from maintaining crew on particular ships.

Power to revoke exemption.

Power to make order with respect to portions of ports.

Application of section 2 to certain ships.

Power to charge port-police upon port-fund.
9. It shall be lawful for [(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 [(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 [(the appropriate Government)], be rendered necessary by the resort to such town of seamen from ships lying or being in such port.

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 [(the appropriate Government)] and [(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 (XXII of 1875).]

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.

15. It shall be lawful for [(the appropriate Government)] from time to time, to vary the rate of police-port-dues 4 ** ** payable in any port, as to [(it)] 5 * * * shall seem fit, so as that the same shall not exceed the rates in the Third Schedule 6 ** set forth.

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

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4These 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.

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

6See foot-note 3 on page 121, ante.

The words “and hospital port-dues” were repealed by s. 4 and the Third Schedule of the Amending Act, 1903 (1 of 1903).

8See foot-note 4 on page 121, ante.

The word “respectively” was repealed by s. 4 and the Third Schedule of the Amending Act, 1903 (1 of 1903).
of six calendar months from the day upon which such order shall have been published in the "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.

18. All penalties levied under this Act shall be applied as fines received under the said Act XXII of 1855 are directed to be applied.

19. This Act shall be construed together with and as part of the said Act XXII of 1855.

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

THE FIRST SCHEDULE.

(Referred to in section 2.)

| 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 | $\frac{1}{72}$ | 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.
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(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 [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 [Lieutenant-Governor of Bengal in Council:]

THE THIRD SCHEDULE.
(Referred to in section 10 2* 3* and 15.)

PORT-DUES.

Police-port-dues.

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

1* 2* 3* 4*

1*See foot-note 5 on page 120, ante.
2*The figure "11" was repealed by s. 4 and Schedule III of the Amending Act, 1903 (1 of 1903).
3*The 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).