

THE SURVEY ACT, 1875

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THE SURVEY ACT, 1875

ACT NO.V OF 1875

[6th October, 1875]

An Act to provide for the survey and demarcation of land.*

WHEREAS it is expedient, with a view to the definition and identification of lands, ¹[the determination of the extent of erosion along the banks of rivers or the extent of accretion, reformation or new formation due to fluvial action of any river,] the better security of landed property and the prevention of encroachments and disputes, to provide for the survey of lands and for the establishment and maintenance of marks to distinguish boundaries;

Preamble

It is hereby enacted as follows:—

PART I

PRELIMINARY

1. This Act may be called the ²[* * *] Survey Act, 1875. Short title

It extends to the whole of ³[Bangladesh]. Local extent

* Throughout this Act, except otherwise provided, the words "Government" and "Taka" were substituted, for the words "Provincial Government" and "rupees" respectively by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

¹ The words and commas "the determination of the extent of erosion along the banks of rivers or the extent of accretion, reformation or new formation due to fluvial action of any river," were inserted by section 2 of the Survey (Amendment) Act, 1975 (Act No. XXVI of 1975),.

² The word "Bengal" was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act VIII of 1973).

³ The word "Bangladesh" was substituted, for the words "East Pakistan" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

Interpretation- clause.	2. In this Act, unless there be something repugnant in the subject or context,—
"Collector"	"Collector" means every Collector or Deputy Commissioner of a district, and includes every officer either generally or specially vested with the powers of a Collector for the purposes of this Act.
"Deputy Collector"	"Deputy Collector" includes any Deputy Collector to whom the Collector or Superintendent of Survey may delegate any of his functions under this Act:
"Estate"	<p>"estate" means-</p> <p>any 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 or Deputy Commissioner of a district;</p> <p>any khas mahal and revenue-free land not entered in any register;</p> <p>any <i>char</i> or island thrown up in a navigable river or in the sea which, under the laws for the time being in force, is at the disposal of the Government;</p> <p>and also includes the following in the district of Sylhet:—</p> <p>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;</p> <p>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;</p> <p>any land being the exclusive property of Government of which a separate entry has been made in the general registers of revenue-paying and revenue-free estates mentioned in Chapter IV of the Assam Land and Revenue Regulation, 1886.</p>

Explanation – Any land gained by alluvion or by dereliction of a river or of the sea to any estate as here defined, which, under the laws in force is considered an increment to the tenure to which such land has accreted, shall be deemed a part of such estate:

" <i>mauza</i> " includes every village, hamlet, tola and similar subdivision of an estate, <i>pargana</i> or village by whatever name such subdivision may be known:	"Mauza"
"occupant" includes every <i>zaminder</i> , tenure-holder, farmer and other person entitled to receive rents in respect of land, or holding land on a claim that he is so entitled, and every <i>raiyyat</i> in occupation of land;	"Occupant"
"section" means a section of this Act:	"Section"
"survey" includes identification of boundaries, ¹ [determination of the extent of erosion along the banks of rivers or the extent of accretion, reformation or new formation due to fluvial action of any river,] and all other operations antecedent to and connected with survey:	"Survey"
"tenure" includes all permanent interests in land, with the exception of estates as above defined, and with the exception of those of <i>raiyyats</i> having a right of occupancy only; it also includes all <i>ghatwali</i> holdings:	"Tenure"
"tenure-holder" means all or any of the holders of a tenure:	"Tenure holder"
" <i>zamindar</i> " means all or any of the holders of an estate.	"Zamindar"

PART II

OF THE SURVEY

3. The Government may, whenever it shall think fit, order that a survey shall be made of the land situated in any district or in any part of a district or in any specified tract of country, and that the boundaries of estates, tenures, mauzas or fields be demarcated on the lands so to be surveyed ²].

Government
may order
survey

* * *]

¹ The words and commas "determination of the extent of erosion along the banks of rivers or the extent of accretion, reformation or new formation due to fluvial action of any river," were inserted by section 3 of the Survey (Amendment) Act, 1975 (Act No. XXVI of 1975).

² The full-stop was substituted for the colon and thereafter the proviso was omitted by section 4 of the Survey (Amendment) Act, 1975 (Act No. XXVI of 1975).

Government
may appoint
Superintendent
of Survey

4. For the purpose of carrying out any survey directed to be made under the last preceding section, or for any or all of the purposes of this Act,

the Government may appoint a Superintendent of Survey, who may exercise all or any of the powers of a Collector under this Act;

and may appoint one or more Assistant Superintendents and Deputy Collectors, who shall exercise all the powers of a Collector in respect to such matters under this Act as may be delegated to such Assistant Superintendents or Deputy Collectors respectively by the Collector or Superintendent of Survey, and not otherwise:

Provided that, notwithstanding the appointment of a Superintendent of Survey for any tract of country, ¹[it shall be competent to the Board of Land Administration to] direct that the Collector shall perform any duties under the Act within the said tract.

Collector to
publish
proclamation
before entering
on lands

5. Before entering on any lands for the purpose of a survey the Collector shall cause to be published a proclamation addressed to the occupants of the lands which are about to be surveyed and of the conterminous lands, and to all persons employed on or connected with the management of, or otherwise interested in, such lands, calling upon them to attend, either personally or by agent, before the Collector or any officer authorised by the Collector in that behalf, at such places and at such times as shall be stated in such proclamation, during the demarcation and survey of the land, for the purpose of pointing out the boundaries and of rendering such aid as may be necessary in setting up or repairing such boundary marks as may be required, and of affording such assistance and information as may be needed for the purposes of this Act.

¹ The words "it shall be competent to the Board of Land Administration to" were substituted, for the words "the Government may" by section 4 and Schedule of the Laws (Amendment) Ordinance, 1982 (Ordinance No. XLI of 1982).

Such proclamation shall be published by posting a copy thereof-

at the Court of the Judge and at the office of the Collector of every district within which any portion of the lands about to be surveyed may be known to be situated;

at every subdivisional office, police station, *Munsif's* Court and sub-registrar's office within the jurisdiction of which any portion of the land about to be surveyed may be known to be situated;

at one or more *mal-cutcheries* on each estates;

and at such other place or places as to the Collector may seem fit.

6. After issue of a proclamation as aforesaid, the Collector and any person acting under his authority may enter upon such lands, and do all things and make all inquiries necessary for effecting the survey and demarcation of the boundaries thereof.

Collector may enter upon land

7. The Collector may also, by a special notice, require any such person to attend before or before any person authorised by the Collector in that behalf, within a specified time, which shall not be less than fifteen days after the service of the notice, at any places, for any of the purposes aforesaid; any every person on whom such special notice may be served shall be legally bound to attend as required by the notice, and to do any of the things mentioned in section 5, and to give any information which may be required, so far as he may be able to give it.

Collector may serve special notice

8. When any materials or labour shall have been supplied for any of the purposes mentioned in section 5, the Collector or other officer making a requisition under that section shall forthwith cause the price of such materials or labour to be paid to the person by whom the same were supplied.

Collector to pay price of materials or labour supplied

9. The Collector or other survey officer authorised by the Collector in that behalf may, by a special notice, require any occupant to clear any boundary or other line which it may be necessary to clear for the purposes of the survey, by cutting down and removing any trees, jungle, fences or standing crops.

Collector may require occupants to clear boundary lines

Compensation

10. If any demand for compensation be made in respect of the clearance of any line in accordance with a requisition under the last preceding section, the Collector shall ascertain and record the nature and estimated value of any trees, jungle, fences or standing crops which may have been cut down or removed, and shall offer adequate compensation to the owners thereof, together with payment for all expenses incurred in carrying out the said requisition.

Amin or survey officer to call upon persons to sign maps or papers

11. When the demarcation of a village or other convenient tract has been completed, the *amin* or other survey officer shall, before sending in to the Collector the maps and papers relating thereto,

by a general notice, in which the names of all persons required to appear shall be specified, and which shall be posted up at a convenient place in the village or tract,

call upon all persons who have pointed out any boundaries in such village or tract on behalf of those interested to attend before him within three days of the publications of the said notice for the purpose of inspecting the maps, field books and similar papers in which any boundary pointed out by any such person has been represented, and, by signing such maps and papers, to certify that the boundaries have been laid down in accordance with the boundaries pointed out by them;

and every person so called upon shall be legally bound to attend before such *amin* or survey officer, and to inspect the papers, in accordance with such requisition.

Statement of objections

Any person so called upon who may object to sign the maps and papers as aforesaid shall be required to state his objections in writing, and such statement shall be attached to the record of the demarcation of the village or tract and shall be submitted to the Collector together with the maps and papers.

Effect of signature

The signature affixed to any maps or papers under this section shall be in attestation of the fact that the boundaries thereon represented or any of them have been represented in accordance with those pointed out by the person signing; and the affixing of such signature shall not be held to prejudice the right of any person interested to make any objection to such boundaries on any other ground before the Collector under the next succeeding section.

12. On receipt in the Collector's office of the maps or papers showing any boundaries which have been demarcated, the Collector shall cause a notification to be posted in his office, and in such other places as he may think proper, informing all persons concerned that the maps and papers relating to the boundaries in the village or tract specified are open to inspection; and requiring any person who may have any objections to prefer, to prefer such objections within six weeks of the date of the posting of such notification, after which time the Collector will proceed finally to confirm the boundaries as laid down for the purpose of the survey.

On receipt of maps, collector to post notification in office

Whenever the Collector shall have reason to believe (either from the failure of any person interested or his representatives to sign the maps and papers on the spot when required by the survey officer to do so under the last preceding section, or for any other reason) that any *zamindar* or person interested is likely to object to any boundary as laid down or as represented in the said papers,

Collector when to issue special notice

the Collector shall issue a special notice, requiring such *zamindar* or other person to attend personally or by duly authorised agent before him, or before any person authorised by the Collector in that behalf, within a specified time, which shall not be less than one month after the service of the notice, for the purpose of signing and thereby admitting the correctness of any maps or other papers which have been prepared under this Act in respect of any boundary in which such *zamindar* or other person is interested, or of stating in writing the substance of any objection which he may wish to prefer against the correctness of such maps or papers;

and, if any person so summoned shall fail to attend and to sign the said maps or papers, or to give in a written statement of his objections within the time prescribed, the Collector may proceed finally to confirm the boundaries as represented in such maps and papers, for the purposes of the survey and of this Act:

Provided that, if within the time specified any such duly authorised agent deposits with the Collector the necessary expenses of making copies of the said maps or papers, the Collector shall order such copies to be prepared, and as soon as they are prepared shall cause a notice to that effect to be posted at his office, and the said agent shall be allowed such time as

If agent deposits expenses of making copies, Collector to order them to be prepared

may be specified in such notice, not being less than fifteen days from the posting thereof, for the purpose of signing or of giving in a written statement of objections.

Procedure when objection is stated

When a written statement of objections has been given in, as in this section provided, the Collector, after holding any further inquiry which he may deem necessary, shall pass such order in respect of such objections as to him shall seem fit; and, if the objections shall seem to him not to be well-founded, shall direct that all expenses of such further inquiry, and all expenses entailed on any other person by such inquiry, shall be recovered from the person who made the objection.

Person making subsequent objection may be required to deposit costs of further inquiry

13. Whenever any person, having failed to sign the maps and papers, or to give in his objections in writing within the time prescribed by the notification or by the special notice mentioned in the last preceding section, shall, at any time before the Collector has finally confirmed the boundaries for the purposes of the survey, prefer any subsequent objection against the correctness of any maps or papers in respect of which notification or notice was issued,

the Collector shall require him to deposit the estimated costs of any further inquiry which it may be necessary to make in respect of his objection;

and, if the said person shall fail to deposit such costs within the time specified by the Collector, he shall be deemed for all purposes of this Act to have admitted the correctness of the said maps and papers.

If the costs of any inquiry which may be deemed necessary be deposited, the Collector shall make such further inquiry at the expense of the person so objecting; and, if the objection shall seem to the Collector not to be well-founded, he may pass such order as he shall think fit in respect of the recovery from the objector of any sum expended by the Collector on the inquiry in excess of the sum deposited, and of any necessary expenses incurred by any other persons on account of such inquiry:

Provided that no person so making an objection after the prescribed time shall, under any circumstances, be entitled to recover the expenses which he is required to deposit before any further inquiry is made in respect of such subsequent objection.

¹[PART IIAOF DETERMINATION OF EROSION, ACCRETION,
REFORMATION AND NEW FORMATION

13A. The Government may, whenever it shall think fit, order that a survey shall be made to determine the extent of erosion along the banks of any river or the extent of accretion, reformation or new formation caused from time to time due to fluvial action of any river in any district, part of a district or local area.

Government may order survey to determine the extent of erosion, accretion and new formation

13B. (1) Before entering on any land for the purpose of survey under section 13A, the Collector shall cause to be published *mauzawar* a proclamation addressed to the residents of the villages and the occupants of the land where the extent of erosion along the banks of any river or the extent of accretion, reformation or new formation due to fluvial action of any river is about to be determined calling upon them to attend before the Collector or any officer authorised by him in that behalf, at such place and at such time as shall be stated in the proclamation, for the purpose of pointing out the extent of erosion, accretion, reformation or new formation and of rendering such aid as may be necessary and of affording of such information as may be required.

Collector to publish proclamation before entering on lands

(2) Such proclamation shall be published by posting a copy thereof at the Police station and the Tahsil Office within the jurisdiction of which any portion of the land about to be surveyed is situated and at such other place or places as the Collector may direct.

13C. The provisions of sections 6, 7, 8, 9 and 10 shall, *mutatis mutandis*, apply to a survey carried out under this Part as they apply to a survey carried out under Part II.

Entering upon lands, etc.

13D. When the extent of erosion along the banks of any river has been determined by survey after issue of a proclamation under sub-section (1) of section 13B, the *amin* or other survey officer engaged for the purpose shall show the same by drawing diluvion lines on the latest survey maps of the *mauzas* concerned noting the year of diluvion at both ends of such diluvion lines and shall send to the Collector the maps

Drawing of diluvion line on the latest survey maps, etc.

¹ PART IIA was inserted by section 5 of the Survey (Amendment) Act, 1975 (Act No. XXVI of 1975).

and all papers relating thereto after signing them legibly giving designation and date; and the *amin* or other survey officer engaged for the purpose of survey of accretions, reformations or new formations, as the case may be, shall show the periphery of the same on traverse sheets, and shall send to the Collector these traverse sheets, and all papers relating thereto after signing them legibly giving designation and date.

On receipt of maps or traverse sheets, Collector to invite objections

13E. (1) On receipt of the maps showing the diluvion lines thereon or the traverse sheets relating to the survey of accretions, reformations and new formations and other papers relating thereto, the Collector shall cause a notice to be posted in his office, and in such other places as he may think proper, informing all persons concerned that the maps showing the diluvion lines and the traverse sheets showing the peripheries of accretions, reformations and new formations in respect of a village or tract specified are open to inspection, and requiring any person, who may have any objection in respect thereof, to prefer such objections within thirty days of the date of the posting of such notice.

(2) If any objections have been filed, the Collector, after hearing the persons concerned and holding such further enquiry as he may deem necessary, shall pass such order in respect of such objections as he may deem fit.

(3) After the disposal of objections under sub-section (2) or, where no objections have been filed, after expiry of the time fixed for filing objections, the Collector shall, so far as the diluvion lines are concerned, confirm the same as shown in the maps and such confirmation shall be evidence of the fact that the diluvion lines drawn and the year of diluvion noted on the maps are correct and shall, so far as the survey of accretions, reformations and new formations are concerned, furnish a certificate on the traverse sheets in such form and manner as may be prescribed by the Government.]

PART III
OF BOUNDARY-MARKS

14. The Collector may cause to be erected temporary boundary-marks of such materials, and in such number and manner, as he may direct, on any lands to be surveyed under this Act;

Collector may erect temporary boundary-marks

and may require any occupant of land to maintain and keep in repair such marks or any boundary-marks,

until any survey operation shall be concluded and a final award given as to any disputed boundary, or

until permanent boundary-mark may be erected in lieu thereof as hereinafter provided.

15. The Collector may at any time cause to be erected on any land which is to be, or which has been, surveyed under this Act, permanent boundary-marks of such materials, and in such number and manner, as he may determine to be sufficient to distinguish the boundaries of the estates, tenures, *mauzas* or fields for which the same are to be erected:

Collector may erect permanent boundary-marks

Provided that, seven days before he proceeds to the erection of any permanent boundary-marks, the Collector shall, for the information of all concerned, cause to be posted in his office, and in the *mal-cutcharry* or at some other convenient place on every estate concerned, a specification of the number and character of the marks which he proposes to erect on the estate and an estimate of their cost.

Specification of marks and estimate of cost to be posted

16. All expenses incurred by the Collector in erecting temporary or permanent boundary-marks under this Act, shall, in manner hereinafter provided, be apportioned among, and levied from, the *zamindars* and tenure-holders on their estates:

Apportionment of expenses

Provided that no tenure-holder shall be liable to pay any portion of the expenses incurred by the erection of boundary-marks on an estate, unless some portion of his tenure is situated within fifteen hundred feet of some such boundary-mark.

Rent-free lands deemed part of tenure

17. All lands held without payment of rent, not being entered on the Collector's register of revenue-free tenures of the district, shall, for the purposes of this Act, be deemed to form a part of the tenure within the local boundaries of which they may be included; and if they be not included within the local boundary of any tenure, then to be a part of the estate within the local boundaries of which they are included, and if they be not included within the local boundaries of any one estate, then to be a part of such conterminous estate as the Collector in whose district such conterminous estate is situated shall, by an order under his seal, appoint:

Provided that no rent-free holding of which the annual value is less than five taka shall be liable to pay any portion of the expenses of erecting boundary-marks under this Act.

Procedure when occupant fails to maintain boundary-mark

18. If any occupant on whom a requisition has been made under section 14 fails to maintain or keep in repair any temporary boundary-mark, the Collector may maintain, keep in repair or restore any such boundary-mark, and the expenses thereby incurred shall be recovered as provided in section 57 from the person so failing to maintain or keep in repair any such boundary-mark.

Zamindar, etc., bound to preserve boundary-marks and give notice to Collector when injured

19. Every *zamindar*, tenure-holder and farmer of land shall be legally bound to preserve, as far as lies in his power, such of the permanent boundary-marks lawfully erected on his estate, tenure or farm, or on the boundary between his estate, tenure or farm, and any other estate, tenure or farm, as may be assigned to him in that respect entirely, or jointly with other persons, under the provisions of section 29, and shall give immediate notice to the Collector if any such marks are injured, destroyed or removed, or require repairs.

Collector may re-erect injured boundary-marks and recover expenses from *zamindar*, etc.

20. Whenever it shall come to the notice of the Collector that any permanent boundary-mark erected under the provisions of this Act has been injured, destroyed or removed, or requires repairs, the Collector may cause such boundary-mark to be re-erected, restored or repaired, and may recover any expenses incurred in respect of such re-erection, restoration or repair, in such proportions as he shall think fit, from the *zamindars* and tenure-holders to whom such boundary-mark

may have been assigned in that respect under the provision of section 29; and all such expenses shall be recoverable as provided in section 57.

21. Nothing contained in this Act shall be held to prohibit the Collector from causing any temporary or permanent marks to be erected, maintained or repaired by any occupant of land under the directions of the said Collector, and with the consent of such occupant.

Collector may cause boundary-mark to be erected by occupant of land with his consent

The Collector shall repay to such occupant the expenses incurred in such erection or repair, and such expenses shall be apportioned and recovered as provided in Part IV.

PART IV

OF THE APPORTIONMENT AND RECOVERY OF EXPENSES

22. Upon the completion of the erection of boundary-marks on any tract of land of which the survey may have been ordered, or on any convenient portion thereof, the Collector shall forthwith prepare a statement of all expenses incurred in respect of such boundary-marks.

Collector to prepare statement of expenses in respect of boundary-marks

23. Such statement shall show the total number of marks of each description which have been erected on such tract or portion of such tract, the aggregate cost of erecting all the mark of each description, the names of the estates and *mauzas* within, or on the boundaries of, which any marks been erected, and the total number of marks of each description erected within or on the boundary of each estate.

Contents of statement

24. Upon the completion of such statement the Collector shall provisionally apportion the aggregate expenses of erecting the marks among the estates specified, with reference to the number of boundary-marks of each description which have been erected within or on the boundary of each estate

Collector to apportion cost of erecting marks among estates

25. So soon as the provisional apportionment shall have been made as required by the last preceding section, the Collector shall cause a notice to be served on the *zamindar* of every estate on which the expenses have been apportioned—

Notice to be served

- (a) specifying the sum which has been apportioned on his state, and, as far as can be calculated the sum

which he will be required to pay on account of the service of notices on him under this section and section 29;

- (b) informing him that the said statement is open to inspection in the office of the Collector;
- (c) calling on him to appear in person, or by agent properly authorised, at the office of the Collector on a date to be specified in the notice (not being less than two months after the issue of the notice), on which date the Collector will proceed to consider any objections which may be made to the provisional apportionment of expenses;
- (d) warning him that if he does not appear on the date fixed in pursuance of the notice, he will be deemed to have waived all objections, to the share of the expenses apportioned to his estate;

and (unless as otherwise hereinafter provided in sections 31, 32 and 33);

- (e) informing him that, under this Act, he is entitled to recover a portion of the amount which shall be finally made payable in respect of his estate under section 26, from such tenure-holders on his estate as are made liable to bear a portion of such expenses by sections 16 and 17 (of which sections a copy shall be annexed to the notice); and that in order to enable the collector to apportion the said amount among the said tenure-holders, he may give in a list of all such tenures, as defined in this Act, held directly from him, with a specification of the number of boundary-marks of each description which are erected within or on the boundary of each tenure;
- (f) and warning him that if he fails to give in a list of tenures as aforesaid on or before the said date, he will be deemed to have given up all claim to recover from the tenure-holders any part of the amount for which he may be held liable under section 26.

Collector to
make final
apportionment

26. On the date fixed in such notice the Collector shall proceed to consider all objections which may be made to the provisional apportionment, and to make such final apportionment of the expenses shall seem to him fit.

In making such final apportionment the costs of serving all notices under section 25 shall be distributed rateably among the estates concerned, in proportion to the share of the expenses of erecting boundary-marks which may be apportioned to each estate; and the amount so finally apportioned as payable in respect of each estate, together with the costs of serving notices, rateably distributed as aforesaid, shall be due to the Collector from the *zamindars* of such estates.

27. Notwithstanding anything contained in the last preceding section, the Collector may postpone the final apportionment if it shall appear to him that a notice under section 25 has not been served on the *zamindar* of any estate which should be made liable for a portion of the expenses, or for any other sufficient reason.

Collector may postpone final apportionment

28. Any *zamindar* failing to appear on the date fixed in the notice served on him under section 25 will be deemed to have waived all objections to the payment of the amount apportioned to his estate, and will not be entitled to prefer any objections thereto on any subsequent date; and any *zamindar* failing to give in a list of tenures (when called upon under section 25 to give in such list), on or before such date, will be deemed to have given up all claim to recover from the tenure-holders any part of the amount which may have been apportioned as payable in respect of his estate under section 26.

Zamindar failing to appear deemed to have waived objections

29. So soon as the expenses shall have been finally apportioned under section 26 among the estates concerned as hereinbefore provided, the Collector shall issue a notice in respect of every estate, specifying the amount finally apportioned as payable in respect of the estate, and requiring the *zamindars* to pay such amount to the Collector, together with the costs of serving such notice, within one month of the issue of the notice.

Collector to issue notice specifying amount finally apportioned

If such amount be not paid to the Collector within such period, the same, with interest, at such rate, not exceeding six *per centum per annum*, as the Government may from time to time determine, may be levied as provided in section 57.

Notice shall assign boundary-marks which *zamindars* are bound to preserve

The notice issued under this section shall assign to the *zamindar*, or to the *zamindar* jointly with tenure-holders, the boundary-marks which they are legally bound to preserve under the provisions of section 19, and in respect of which they will be held liable to pay the costs of re-erection, maintenance and repair, under the provisions of section 20.

Collector to apportion between *zamindar* and tenure-holders

30. If the *zamindar* of any estate shall give in a list of tenures, as referred to in section 25, with an application to the Collector to apportion between his estates and the tenures the amount which has been apportioned as payable in respect of his estates as aforesaid, the Collector shall proceed to make a provisional apportionment of the said amount between the *zamindar* and the tenure-holders, to serve notices on the said tenure-holders in the manner provided in section 25, and to make a final apportionment among the said *zamindar* and tenure-holders in the manner provided in section 26 and 27; and the provisions of section 28 shall be applicable to such tenure-holders:

No separate notice in respect of apportionment of sum less than two taka

Provided that no separate notice shall be served under this section in respect of the provisional or final apportionment of the sum payable in respect of any tenure, if such sum be less than two taka; but in respect of all such sums it shall be sufficient to publish a list showing the sums apportioned as payable.

Such list shall be published by being posted at the office of the sub-divisional officer and at a conspicuous place in some village within which lands appertaining to the tenure are situate.

Summary apportionment between *zamindar* and tenure-holders

31. Notwithstanding anything in this Part contained, whenever the Collector may consider that he has sufficient information (whether derived from papers compiled for the purposes of the road-cess, from inquiries made in the course of proceedings under this Act, or otherwise) to enable him in a summary way to make an apportionment of any expenses recoverable under this Act in respect of any estate, between the *zamindars* of, and the holders of, tenures in such estate, the Collector may, as soon as possible after he shall have made a provisional apportionment under section 24 of the sum payable in respect of such estate, and without calling on the *zamindar* to

give in any list of tenures as provided in clause (e) of section 25, proceed to make a provisional apportionment between the *zamindars* and the tenure-holders of such estates of the sum which has been provisionally apportioned under section 24 as payable in respect of the estate.

32. Whenever any provisional apportionment of the sum payable between the *zamindars* and the tenure-holders may have been made summarily, as provided in the last preceding section,

Notice to
zamindar when
provisional
apportionment
made
summarily

the notice to be served on the *zamindar* under section 25 shall inform the *zaminder*, in addition to the particulars specified in clauses (a), (b), (c) and (d) of the said section, and instead of those specified in clauses (e) and (f),

that under this Act he is entitled to recover a portion of the amount which shall be finally apportioned as payable in respect of his estate under section 26 from the tenure-holders on his estate; and

that the Collector has made a provisional apportionment of the said sum between the *zamindar* and tenure-holders according to a list which shall be annexed to the said notice;

and shall warn him-

that if he fails to prefer any objection to such provisional apportionment on or before the date specified, he will be deemed to have given up all right to prefer any such objection at any future time; and

that the Collector will proceed to make such apportionment final, or to make any modifications in it which he may think fit:

Provided that the sum finally made payable by the *zamindar* shall not exceed the sum apportioned upon him in the said provisional apportionment between the *zamindars* and the tenure-holders.

33. As soon as a provisional apportionment between the *zamindar* and the tenure-holders shall have been made summarily as provided in section 31, the Collector shall proceed to serve

Procedure on
provisional
apportionment

notices on the tenure-holders concerned in the manner provided in section 30, and to do all other things as if the said provisional apportionment upon tenure-holders had been made on a list given in by the *zamindar* under section 30.

Mode of apportionment among tenures

34. In apportioning the amount among the *zamindars* and the tenure-holders the Collector shall first deduct such sum as he shall consider to be fairly payable by the *zamindar* in respect of lands not included in any tenure, and respect of his interest in lands which are included in tenures; and in apportioning the remainder among the tenures he shall take into consideration the number of pillars erected within or on the boundary of each tenure, the extent of each tenure, and the distance at which it is situated from the boundary-marks; but no tenure shall be made liable for any portion of the sum so apportioned, unless some part of it be situated within fifteen hundred feet from some boundary-mark.

Notice of apportionment in respect of tenures

35. So soon as the final apportionment among tenure-holders under section 30 shall be completed, the Collector shall cause to be issued notices to each of the said tenure-holders stating the amount payable in respect of each of their tenures, with interest (if any) calculated at the annual rate of six *per centum* from the date on which the *zamindar* paid to the Collector the sum which was apportioned on his estate under section 26, and the cost of serving upon the tenure-holder the notice under this section and calling upon him to pay the total amount so due to the *zamindar* of the estate of which the tenure is a part, within one month of the date of the notice:

No separate notice to tenure-holder required to pay less than two taka

Provided that no separate notice shall be served under this section on any tenure-holder who is required to pay a sum of less than two taka as his share of the expenses apportioned under this Act; but in respect of such sums it shall be sufficient to publish a list in the manner prescribed by section 30, and no costs incurred in respect of publication of any such list shall be recoverable from any person mentioned therein as liable to pay less than two taka.

36. Notwithstanding anything contained in section 35, the Collector shall not issue the notices therein mentioned to the tenure-holders until the *zamindars* concerned shall have deposited with the Collector the full amount of the costs of serving all the notices, and of publishing the lists as required by that section.

Collector not to issue notices to tenure-holders until *zamindars* have deposited costs

37. The provisions of sections 25, 26, 27, 28, 29, 30, 34 and 35 shall be applicable, as far as possible, to every case in which any tenure-holder who has been made liable for the payment of any share of expenses under this Act may apply to the Collector to apportion the amount for which he has been made liable between himself and the holders of subordinate tenures direct from himself;

Apportionment between tenure- holder and holder of subordinate tenure

and the provisions of sections 31, 32 and 33, regarding the procedure for making a provisional apportionment in a summary way between a *zamindar* and the tenure-holder on his estate, shall be applicable, as far as possible, to the provisional apportionment of expenses between the holder of a tenure and the holders of under-tenures within his tenure:

Provided always that no such apportionment shall be made in respect of *raiyats* who have a right of occupancy only, and whose rent is not fixed in perpetuity.

38. Every *zamindar* or tenure-holder to whom any sum is payable under the preceding sections may recover the same with interest as aforesaid in the manner provided by any law for the time being in force for the recovery of arrears of rent in respect of the tenure for which the sum is due.

Recovery of sums payable to *zamindar* or tenure-holder

39. The provisions of this Part shall apply to all sums expended by the Government since the first day of November, 1874, in erecting boundary-marks.

Recovery of sums expended by Government

PART V

BOUNDARY DISPUTES

Procedure in case of disputes as to boundary

40. If it shall come to the notice of the Collector in the course of survey under this Act, that a dispute exists as to any boundary which should be surveyed, the Collector, after holding such inquiry as he may deem necessary, may determine such boundary as hereinafter provided.

Mode of determining boundary

41. The Collector shall determine the boundary according to actual possession, and cause it to be secured by boundary-marks;

Force of Collector's order

and the order of the Collector under this section shall, until it be reversed or modified by competent authority, have the force of an order of any Civil Court declaring the parties to be in possession of the land in accordance with the boundary as determined by the Collector.

Power of collector to take possession of land in dispute

42. If, after holding the necessary inquiry, the Collector is unable to discover which party was in possession of the disputed land when he instituted the inquiry under this section, the Collector may take possession of the land in dispute, and retain possession thereof until some party shall have established his right to the said land.

Power to refer to arbitration

43. Whenever the Collector thinks it necessary to decide a dispute as to any boundary under the last preceding section, he may, with the consent of the parties concerned, refer the same to arbitration.

The procedure laid down in the Arbitration Act, 1940, shall, so far as may be practicable, be applicable, to disputes so referred to arbitration.

Relaying boundary previously determined by Court or by revenue survey

44. If the boundary regarding which the dispute exists as mentioned in section 40 shall at any previous time have been determined by any Court of competent jurisdiction, or shall have been laid down and shown on a map in the course of any previous revenue-survey or settlement, and no objection to the boundary as then laid down and mapped shall have been preferred before any authority competent to decide on such objection:

whenever the dispute relates to the boundary of an estate which is liable for revenue, or to any other boundary by which the interests of the Government may be affected, the Collector shall,

and whenever the disputes relates to any other boundary, the Collector may, if he thinks fit,

relay, as nearly as may be possible, the boundary as previously determined or laid down and shown on the map, and cause such boundary to be shown on the survey-map, with an explanatory note to the same:

Provided that the relaying and record of a boundary by the Collector under this section shall not affect the possession of any land by any party, and shall be in addition to the determination and record of the boundary according to actual possession required by section 41.

Nothing contained in the section shall be held to prohibit the Collector from deviating from a boundary as held by actual possession or as shown on a former map, and laying down a new boundary, if all the parties concerned agree to such new boundary, on the ground that the boundary held by actual possession, or as shown on the former map, was incorrect, and if it appears to the Collector that there is no objection to the adoption of such new boundary.

Collector may deviate from boundary if parties agree

The reason for every such deviation shall be recorded in the Collector's proceedings.

45. If it shall come to the notice of the Collector at any time, or in any manner, that a doubt or dispute exists in respect to any boundary –

- (a) which has at any time been determined by a competent Court; or
- (b) which has been laid down and shown on a map, in the course of a previous revenue-survey or settlement, or other proceeding of a revenue officer for any special purpose, and against which no objection has been preferred to any authority competent to decide upon such objection; or

Power of Collector in case of doubt or dispute as to boundary determined by Court or laid down by survey

- (c) which has been laid down by survey under this Act,-

the Collector may, if he thinks it desirable for any reason that the boundary so determined or laid down shall be relaid, proceed to relay the boundary in the manner prescribed in section 44 of this Act,

and for the purpose of so relaying the boundary he may make any inquiries and surveys which may be necessary, and such inquiries and surveys shall be deemed to be proceedings under section 6, and the Collector shall exercise in respect thereof all powers which he may exercise in respect of inquiries and surveys under that section.

In certain cases Collector may cause marks to be erected

46. Whenever the Collector shall have determined a boundary which was in dispute, and the order shall have become final,

and whenever a boundary which has been supplied by the survey officers, or has been determined under this Act, has been altered by a decree of any Civil Court which has become final,

and whenever it shall come to the notice of the Collector that any boundary has been determined by a competent Court or authority,

the Collector may cause such marks as he may think fit to be erected in order to secure the boundary permanently, and the provisions of Parts III and IV shall, so far as is possible, be applicable to boundary-marks which are erected under this section and to the apportionment of the cost thereof.

PART VI

MISCELLANEOUS

Joint *zamindars* subject to every liability imposed on single *zamindars*

47. Whenever any estate or tenure is held jointly by two or more *zamindars* or tenure-holders, all such *zamindars* and tenure-holders shall be jointly and severally liable in respect of every liability imposed on *zamindars* or tenure-holder respectively by this Act,

and any share-holder in any estate or tenure who may have paid the amount finally apportioned to such estate or tenure may recover from his co-sharers such sums as may be payable in respect of their shares as arrears of rent, or may take credit for such sums in any adjustment of accounts between himself and his co-sharers.

48. Every notice in and by this Act required to be served on any person may be served- Service of notice

- (1) by delivering the same to the person to whom it is directed, or, on failure of such service, by posting the same on some conspicuous part of the house in which the said person resides, or by delivering the said notice to a general agent of the person to whom such notice is directed; or
- (2) by sending a registered letter containing such notice directed to the said person at his usual place of abode, or to the place where he may be known to reside; or
- (3) by posting a copy of the notice at any *mal-cutchery* of the estate or tenure of the person to whom the notice is directed; or if no such *mal-cutchery* be found, on some conspicuous place on the said estate or tenure to which such notice relates, and by delivering, in the case of estates paying their annual revenue by four instalments, another copy thereof to any agent who shall have paid an instalment of revenue next after the preparation of such notice.

In all cases where two or more persons are holders of an estate or tenure, service of notice under this clause shall be deemed to be good and sufficient service on each and all of such persons.

49. No proceedings under this Act shall be 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 estate or tenure or land in respect of which he is rendered liable to pay, or by reason of any other informality, provided the directions of this Act be in substance and effect complied with; No proceedings under Act affected by mistake or mis-description

and on proceedings under this Act shall be affected by reason of the omission to serve any notice on any *zamindars* whose name is not recorded on the Collector's registers as owner of the estate in respect of which the notice is required to be served.

Power of
Collector to
enforce
attendance of
witnesses

50. For the purpose of any inquiry under this Act the Collector shall, in addition to every power conferred specially by this Act, have power to summon and enforce the attendance of witnesses and compel the production of documents by the same means (as far as may be), and in the same manner, as is provided in the case of a Court under the Code of Civil Procedure 1908.

Daily fine for
failure to
comply with
requisition in
notice

51. If any person shall fail to comply with a requisition contained in any special notice served under section 7 of this Act, or in any notice served for the purpose of any inquiry under Part V of this Act, within the time specified in such notice, the Collector may impose upon him such daily fine as he may think fit, not exceeding fifty taka, and such fine shall be payable daily until the requisition is complied with; and the Collector may proceed from time to time to levy any amount which has become due in respect of any such fine, notwithstanding that an appeal against the order imposing such fine may be pending:

Provided that whenever the amount levied under any such order shall have exceeded five hundred taka, the Collector shall report the case specially to the ¹[Commissioner of the division] and no further levy in respect of such fine shall be made otherwise than by authority of the ²[said Commissioner].

Penalty for no
giving notice of
injury to
boundary-mark

52. Any person being bound by the provisions of section 19 to give notice to the Collector in respect of any boundary-mark having been injured, destroyed or removed, or requiring repairs, who shall fail to give such notice, shall be liable to a fine not exceeding one hundred taka, to be imposed by order of the Collector.

¹ The words "Commissioner of the division" were substituted, for the words "Director of Land Records and Surveys" by section 2 and Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976).

² The words "said Commissioner" were substituted, for the words "said Director" by section 2 and Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976).

- 53.** Any person convicted before a Collector of wilfully erasing, removing or damaging any boundary-mark not being a land-mark fixed by the authority of a public servant within the meaning of section 434 of the ¹[Penal Code] which has been lawfully erected, may be ordered by the convicting officer to pay such sum, not exceeding two hundred taka, for each mark so erased, removed or damaged, as the said officer may think fit, in addition to such sum as may be necessary to defray the expense of restoring the boundary-mark so erased, removed or damaged. Penalty for removing boundary-marks
- 54.** The Collector may award any portion of a fine imposed under either of the two last preceding sections, and which may be realised, to any person who may have given information leading to the imposition of the fine. Collector may award portion of fine to informer
- 55.** A fine under sections 51, 52 and 53 may be levied as far as may be practicable, in the manner provided in sections 386, 387 and 389 of the Code to Criminal Procedure, 1898; but if no movable property belonging to the person from whom the fine is due is found in the district within which the order was passed, then such fine may be levied as if it were an arrear of revenue. Levy of fine
- 56.** Whenever the person erasing, removing or damaging any boundary-mark cannot be discovered, or if for any other reason it is found impracticable to recover from him the sum which he has been so ordered to pay, the boundary-mark shall be restored or repaired by the Collector, and the expenses thereby incurred shall be recovered from the occupants, of such of the conterminous lands and in such proportions, as to the Collector may seem fit. When person removing boundary-mark cannot be found, Collector may repair
- 57.** Every amount which may become due to the Collector under the provisions of this Act in respect of any expenses incurred or of any notices served, or of any costs payable by any party in an appeal, shall be deemed to be a demand. Every amount due deemed a demand
- 58.** Except as provided in sections 59 and 60, no appeal shall lie as of right, against any order passed under this Act by any officer; but Appeal against orders

¹ The words "Penal Code" were substituted, for the words "Pakistan Penal Code" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

Supervision of proceedings

the proceedings and orders of Assistant Superintendents and of Deputy Collectors under this Act shall be subject to the supervision and control of the Superintendent of Survey or Collector;

the proceedings and orders of the Superintendent of Survey and of the Collector, to the supervision and control of the ¹[Commissioner of the division]; and

the proceedings and orders of all officers, to the supervision and control of the Government:

Government may restrict functions of ²[Commissioner]

Provided that the Government may order that in the course of any survey under this Act, the functions of the ²[Commissioner] shall be restricted to the decision of appeals under section 60, and that the general powers of control and supervision over the Superintendent of Survey or Collector and their subordinate officers may be exercised by the Government direct.

Appeal against certain orders of Assistant Superintendent or Deputy Collector

59. An appeal, if presented within one month of the date of the order appealed against, shall lie to the Collector or Superintendent of Survey against every order of a Deputy Collector or of an Assistant Superintendent—

- (a) determining under section 8 the amount to be paid as the price of materials or labour supplied;
- (b) determining under section 10 the amount to be paid as compensation;
- (c) deciding a boundary-dispute;
- (d) imposing a fine under this Act.

Appeal against certain orders of Collector or Superintendent of Survey

60. An appeal presented within one month of the date of the order appealed against, shall lie to the ¹[Commissioner of the division] against every order of the Collector or Superintendent of Survey—

- (a) determining under section 8 the amount to be paid as value of materials or labour supplied:

¹ The words "Commissioner of the division" were substituted, for the words "Director of Land Records and Surveys" by section 2 and Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976).

² The word "Commissioner" in the proviso and the marginal heading thereof were substituted, for the words "Director of Land Records and Surveys" by section 2 and Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976).

- (b) determining under section 10 the amount to be paid as compensation;
- (c) determining a disputed boundary;
- (d) imposing a fine of more than fifty taka on any person:

Provided that the order appealed against under clauses (a), (b) and (c) shall not have been passed by the Collector or Superintendent of Survey on an appeal preferred against the order of a subordinate officer.

61. The ¹[Commissioner], Collector or Superintendent of Survey may pass such orders as they shall think fit in respect of the payment of costs incurred by any party in an appeal.

Orders as to costs on appeal

62. No suit shall be brought to set aside an order of a Superintendent of Survey, Collector, Assistant Superintendent or Deputy Collector deciding a boundary-dispute, unless an appeal shall have been first preferred under section 59 or section 60, or unless the person suing was at the time when such order was passed a minor, or insane or an idiot.

No suit to be brought unless appeal first preferred

63. The Government may lay down rules not being inconsistent with this Act,-

Power of Government to make rules

to provide for the preparation of maps and registers, and for the collection and record of any information in respect of any land to be surveyed under this Act;

and generally to provide for the proper performance of all things to be done, and for the regulation of all proceedings to be taken, under this Act.

All inquiries ordered to be made for the collection of information under such rules shall be deemed to be inquiries under section 6, and the Collector shall exercise in respect thereof all powers which he may exercise in respect of inquiries under that section.

¹ The word "Commissioner" was substituted, for the words "Director of Land Records and Surveys" by section 2 and Schedule of the Bangladesh Laws (Amending) Ordinance, 1976, (Ordinance No. IX of 1976).