

THE FERRIES ACT, 1885

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THE FERRIES ACT, 1885

ACT NO. I OF 1885

[27th May, 1885]

An Act to regulate Ferries in Bangladesh.*

Preamble WHEREAS it is expedient to regulate ferries in Bangladesh;

It is enacted as follows:—

PRELIMINARY

Short title	1. This Act may be called the ¹ [* * *] Ferries Act, 1885.
Extent and commencement	2. It extends to the whole of Bangladesh and shall come into force on such date as the Government may by notification in the official Gazette appoint in this behalf.
	3. [Omitted by the East Pakistan Ordinance, 1962 (Ordinance No. XIII of 1962), First Schedule.]
Act not to apply to municipal ferries	4. Nothing in this Act contained shall apply to any ferry deemed or declared to be a municipal ferry under the provisions of the Municipal Administration Ordinance, 1960.
Interpretation	5. In this Act, unless there be something repugnant in the subject or context,—
“Commissioner”	“Commissioner” means the Commissioner of a Division:
“Ferry”	“ferry” includes a bridge of boats, pontoons or rafts, a swing-bridge, a flying bridge, a temporary bridge, and a landing stage:

* Throughout this Act, except otherwise provided, the words “Bangladesh”, “Government” and “Taka” were substituted, for the words “East Pakistan”, “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 word “Bengal” was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

“notification” means a notification published in the official Gazette: “Notification”

“private ferries” includes all ferries other than those declared to be public ferries, or established as such, under section 6 of this Act. “Private ferries”

PART I

PUBLIC FERRIES

6. It shall be lawful for the Government from time to time to—
- (a) declare what ferries shall be deemed public ferries, and the respective districts in which, for the purposes of this Act, they shall be deemed to be situate;
 - (b) take possession of a private ferry and declare it to be a public ferry;
 - (c) establish new public ferries where, in its opinion, they are needed;
 - (d) define the limits of any public ferry;
 - (e) change the course of any public ferry; and
 - (f) discontinue any public ferry which it deems unnecessary.
- Power to declare, establish, define and discontinue public ferries

Every such declaration, establishment, definition, change or discontinuance shall be made by notification:

Provided that, when any alteration in the course or in the limits of a public ferry is rendered necessary by changes in the river on which such ferry is established, such alteration may be made, by an order in writing, by the Magistrate of the district.

7. The control of all public ferries shall be vested in the Magistrate of the district, subject to the direction of the Commissioner.

Control of public ferries vested in the Magistrate of the district

Superintendence
of public ferries

8. The immediate superintendence of every public ferry shall be vested in the Magistrate of the district in which such ferry is situated, or in such other officer as the Government may, from time to time, either by name or by official designation, appoint.

And such Magistrate or officer shall, except when the tolls at such ferry are leased, make all necessary arrangements for the supply of boats for such ferry, and for the collection of the authorised tolls liveable thereat.

Ferry tolls may
be leased by
auction

9. The tolls of any public ferry may, from time to time, be leased by public auction for such term as the Magistrate of the district in which such ferry is situated may, with the approval of the Commissioner, direct.

The Magistrate of the district or the officer authorised by him to conduct such auction may, for sufficient reason to be recorded in writing, refuse to accept the offer of the highest bidder, and may accept any other bid, or may withdraw the tolls from auction.

Execution of
contract by
lessee

The lessee of the tolls of every ferry which have been leased under this section shall execute a contract setting forth the conditions on which the tolls of such ferry are to be held, and shall give security for its due fulfilment.

Lessee of the
tolls of a public
ferry and his
servants bound
to conform to
rules

10. When the tolls of a public ferry have been duly leased, the lessee and every servant of the lessee shall be deemed to be legally bound to conform to the rules made under this Act for the management and control of such ferry.

Provision for the
establishment of
subsidiary ferry

11. On the requisition of the Magistrate of the district the person in charge of a public ferry situated in such district shall maintain at one or more places, in addition to the place at which the said public ferry is established, and within two miles therefrom, such number of subsidiary ferries as may seem to the Magistrate to be necessary for the public convenience: and all the provisions contained in this Act in regard to the management and control of public ferries shall be deemed applicable to any subsidiary ferry maintained under the requisition of the Magistrate.

12. All arrears due by the lessee of the tools of a public ferry on account of his lease;

Recovery of arrears from lessee

any pecuniary forfeiture for breach of contract inserted in the deed of contract or conditions of sale by public auction; and

all sums due from the lessee on the surrender of his lease under section 14,

may be recovered from the lessee or his surety (if any) as a demand under the ¹[* * *] Public Demands Recovery Act, 1913, or any other Act at the time being in force for the recovery of public demands.

13. The lease of the tolls of any public ferry shall be liable to be cancelled at once by the Magistrate of the district in which such ferry is situated, if it shall appear to such Magistrate that the lessee has failed to make due provision for the convenience or safety of the public within fifteen days after being required to do so by a notice in writing from such Magistrate.

Power to cancel lease

14. The lessee of the tolls of a public ferry may surrender his lease on the expiration of one month's notice in writing to the Magistrate of the district in which such ferry is situated of his intention to surrender such lease, and on payment of such reasonable compensation as the Magistrate may, with the approval of the Commissioner, in each case direct.

Surrender of lease

15. The Magistrate of the district, with the approval of the Commissioner, may from time to time make rules consistent with this Act,—

Power to make rules in regard to public ferries

- (a) for the management of all public ferries within such district, and for regulating the traffic at such ferries;
- (b) for regulating the time and manner at and in which the terms in which, and the person by whom, the tolls of such ferries may be leased by auction;

¹ The word “Bengal” was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

- (c) for compensating persons who have compounded for tolls payable for the use of any such ferry when such ferry has been discontinued before the expiration of the period compounded for; and
- (d) generally, to carry out the purposes of this Act;

And, when the tolls of a ferry have been leased under section 9, such Magistrate may, from time to time, with such approval as aforesaid, make additional rules consistent with this Act,—

- (e) for collecting the rents payable for the tolls of such ferries;
- (f) for regulating the returns of traffic to be, from time to time, submitted by the lessee of such ferries;
- (g) in cases in which the communication is to be established by means of a bridge of boats, pontoons or rafts, or a swing-bridge, flying-bridge or temporary bridge, for regulating the time and manner at and in which such bridge shall be constructed and maintained, and opened for the passage of vessels and rafts through the same, and
- (h) in cases in which the traffic is conveyed in boats, for regulating—
 - the number and kinds of such boats and their dimensions and equipment;
 - the number of the crew to be kept by the lessee for each boat;
 - the maintenance of such boats in good condition;
 - the hours during which, and the intervals within which, the lessee shall be bound to ply; and
 - the number of passengers, animals and vehicles, and the bulk and weight or other things that may be carried in each kind of boat at one trip;

and may, from time to time, with such approval as aforesaid, repeal or alter such rules.

Rules made under this section shall be subject to the control of the Government, and shall be published in the official Gazette in such manner as the Government directs, and shall thereupon have the force of law.

16. No person shall, except with the sanction of the Magistrate of the district, maintain a ferry to or from any point within a distance of two miles from the limits of a public ferry:

Private ferry not to ply within two miles of public ferry without sanction

Provided that, in the case of any specified public ferry, the Government may, by notification, reduce or increase the said distance of two miles to such extent as it thinks fit:

Provided also that nothing hereinbefore contained shall prevent persons keeping boats to ply between two places, one of which is without, and one within, the said limits, when the distance between such two places is not less than three miles, or shall apply to boats which the Magistrate of the district expressly exempts from the operation of this section.

17. Claims for compensation for any loss sustained by any person in consequent of a private ferry being taken possession of, or a new public ferry, or subsidiary ferry, being established under section 6 or section 11, shall be inquired into by the Magistrate of the district in which such ferry is situated, who shall, with the approval of the Commissioner, award compensation to any person who may appear justly entitled thereto.

Claims for compensation and what amount to be awarded

Such compensation shall be calculated upon an estimate of the annual net profit actually realized by such person from such ferry on an average of the five years next preceding such declaration, and shall in no case exceed the amount of fifteen times such net annual profit.

18. Tolls, according to such rates as may, from time to time, be fixed by the Magistrate of the district with the approval of the Commissioner, shall be levied on all person, animals, vehicles and other things crossing any river by a public ferry and not employed or transmitted on the public service:

Tolls

Provided that the Government may, from time to time, declare that any persons, animals, vehicles or other things shall be exempt from payment of such tolls.

Where the tolls of a ferry have been leased under section 9, any such declaration, if made after the date of the auction, shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be fixed by the Magistrate of the district under this section.

Table of tolls

19. The lessee or other person authorised to collect the tolls of any public ferry shall affix a table of such tolls, legibly written or printed in the ¹[Bengali] language, and also, if the Commissioner so directs, in English, in some conspicuous place near the ferry:

List of tolls

and shall be bound to produce, on demand, a list of the tolls signed by the Magistrate of the district or such other officer as he appoints in this behalf.

20. [Omitted by Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937.]

Compounding for tolls

21. It shall be lawful for the Magistrate of the district in which a public ferry is situated, with the approval of the Commissioner, from time to time to fix rates at which any person may compound for the tolls payable for the use of such ferry.

PART II

PRIVATE FERRIES

Power to make rules in regard to private ferries

22. The Commissioner may from time to time make rules consistent with this Act, for the maintenance of order, and for the safety of passengers and property, at private ferries situated in his division.

Rules made under this section shall be subject to the control of the Government, and shall be published in the official Gazette in such manner as the Government directs, and shall thereupon have the force of law.

¹ The word "Bengali" was substituted, for the word "vernacular" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

PART III

PENALTIES AND CRIMINAL PROCEDURE

23. Every lessee or other person authorised to collect the tolls or a public ferry, who neglects to affix and keep in good order and repair the table of tolls mentioned in section 19,

or who wilfully removes, alters or defaces such table, or allows it to become illegible,

or who fails to produce on demand the list of the tolls mentioned in section 19,

and every lessee who neglects to furnish any return required under section 15,

shall be punished with fine which may extend to fifty Taka.

Penalty for breach of provisions as to table of tolls, list of tolls and return of traffic

24. Every such lessee or other person as aforesaid asking or taking more than the lawful toll, or without due cause delaying any person, animals, vehicle or other thing, shall be punished with fine which may extend to one hundred Taka.

Penalty for taking unauthorised tolls, and for causing delay

25. Every person breaking any rule made under section 15 or section 22 shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred Taka, or with both.

Penalty for breach of rules made under sections 15 and 22

26. When any lessee of the tolls of a public ferry makes default in the payment of the rent payable in respect of such tolls, or has been convicted of an offence under section 25, or, having been convicted of an offence under section 23 or section 24, is again convicted of an offence under either of those sections, the Magistrate of the district may, with the approval of the Commissioner, cancel the lease of the tolls of such ferry, and make other arrangements for its management during the whole or any part of the term for which the tolls were leased.

Cancellation of lease on default or breach of rules

27. Every person crossing by any public ferry who refuses to pay the proper toll, and every person—

Penalties on passengers offending

who, with intent to avoid payment of such toll, fraudulently or forcibly crosses by any such ferry without paying the toll, or

who obstructs any toll-collector, or lessee of the tolls of any public ferry, or any of his assistants, in any way in the execution of their duty under this Act, or

who, after being warned by any such toll-collector, lessee or assistant not to do so, goes, or takes any animals, vehicles or other things, into any ferry boat, or upon any bridge at such a ferry, which is in such a state or so loaded as to endanger human life or property, or

who refuses or neglects to leave, or remove any animals, vehicles or goods from any such ferry-boat or bridge on being requested by such toll-collector, lessee or assistant to do so, or

who moors any boat, raft or other substance to, or in any way obstructs, any part of a public ferry,

shall be punished with fine which may extend to fifty Taka.

Penalty for plying within public ferry-course without license

28. Whoever conveys for hire any passenger, animal, vehicle or other thing in contravention of the provisions of section 16 shall be punished with fine which may extend to fifty Taka.

Fines payable to lessee

29. Where the tolls of any public ferry have been leased under the provisions hereinbefore contained, the whole or any portion of the fine realized under section 27 or section 28 may be, at the discretion of the convicting Magistrate or Bench of Magistrates, paid to the lessee.

Penalty for rash navigation and stacking of timber

30. Whoever navigates, anchors, moors or fastens any vessel or raft, or stacks any timber, in a manner so rash or negligent as to damage a public ferry, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred Taka, or with both; and the toll-collector or lessee of the tolls of such ferry, or any of his assistants, may seize and detain such vessel, raft or timber pending the inquiry and assessment hereinafter mentioned.

31. The police may arrest without warrant any person committing an offence against section 27 or section 30.

Power to arrest without warrant

32. Every Magistrate or Bench of Magistrates trying any offence under this Act may inquire into and assess the value of the damage (if any) done or caused by the offender to the ferry concerned, and shall order the amount of such value to be paid by him in addition to any fine imposed upon him under this Act; and the amount so ordered to be paid shall be leviable as if it were a fine, or when the offence is one under section 30 by the sale of the vessel, raft or timber causing the damage, and of anything found in or upon such vessel or raft.

Magistrate may assess damage done by offender

The Commissioner may, on the appeal of any person deeming himself aggrieved by an order under this section, reduce or remit the amount payable under such order.

PART IV

MISCELLANEOUS

33. On the cancelment or surrender of a lease, the Magistrate of the district may take possession of all boats and other appliances which have been used by the lessee in the working of the ferry; and may either retain the same permanently on payment of a fair price to the proprietor, or may retain them for such time as may be necessary, not exceeding three months, until he can make arrangements for such other boats and appliances as may be necessary, in which case the Magistrate of the district shall pay a fair sum to the owners for the use of the said boats and appliances:

Power to take possession of boats and other appliances on surrender or cancellation of lease

Provided that, within a week of taking such possession, the Magistrate of the district shall be bound to give notice to the said lessee of his intention to retain the said boats and appliances permanently, or for a period to be specified in the notice.

Similar power
in cases of
emergency

34. When any boats or their equipments, or any materials or appliances suitable for setting up a ferry, are emergently required for facilitating the transport of officers or troops of the ¹[Republic] on duty, or of any other persons on the business of the ¹[Republic] or of any animals, vehicles or baggage belonging to such officers, troops or persons, or of any property of the ¹[Republic], the Magistrate of the district may take possession of and use the same paying such compensation for the use thereof as the ²[Government] may ³[* * *] direct, until such transport is completed.

Management
may be vested
in local
authority

35. It shall be lawful for the Government to order that any public ferry shall be managed by a local authority having jurisdiction over the area or any part of the area in which such ferry is situated; and such local authority shall have all the powers vested in the Magistrate of the district under this Act except the powers specified in sections 7, 17 and 32, and thereupon the ferries shall be managed accordingly.

Delegation of
powers

36. The Government may, from time to time, delegate, under such restrictions as it thinks fit, any of the powers conferred on it by this Act to any Commissioner or Magistrate of a district, or to such other officer or authority as it thinks fit, by name or by official designation.

¹ The word "Republic" was substituted, for the word "State" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The word "Government" was substituted, for the words and commas "Central Government, where the transport is in connection with the affairs of the Central Government, and the Provincial Government in other cases" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ The words "in each case" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).