

The Obstructions in Fairways Act, 1881

(ACT NO. XVI OF 1881)

¹♣An Act to empower the Government to remove or destroy obstructions in fairways, and to prevent the creation of such obstructions.

Preamble

WHEREAS it is expedient to empower the Government to remove or destroy obstructions to navigation in fairways leading to ports in Bangladesh and to prevent the creation of such obstructions; It is hereby enacted as follows:-

Short title

1. This Act may be called the Obstructions in Fairways Act, 1881;

But nothing herein contained shall apply to vessels belonging to, or hired by a contract made on behalf of, the Government.

Government empowered to remove or destroy obstruction in fairway

2. Whenever, in any fairway leading to any port in Bangladesh, any vessel is sunk, stranded or abandoned, or any fishing-stake, timber or other thing is placed or left, the Government may, if in its opinion such thing is, or is likely to become, an obstruction or danger to navigation,-

(a) cause such thing or any part thereof to be removed; or

(b) if such thing is of such a description or so situate that, in the opinion of the Government, it is not worth removing, cause the same or any part thereof to be destroyed.

Government entitled to expenses incurred in removing obstruction

3. Whenever anything is removed under section 2, the Government shall be entitled to receive a reasonable sum, having regard to all the circumstances of the case, for the expenses incurred in respect of such removal.

Dispute concerning

Any dispute arising concerning the amount due under this section, in respect of anything so removed, shall be decided by the District Magistrate

**such
expenses**

having jurisdiction at the place where such thing is, upon application to him for that purpose by either of the disputing parties; and such decision shall be final.

**Notice of
removal to
be given by
Government**

4. The Government shall, whenever anything is removed under section 2, publish in the official Gazette a notification containing a description of such thing, and the time at which and the place from which the same was so removed.

**Things
removed
may, in
certain
cases, be
sold**

5. If, after publishing such notification, such thing is unclaimed, or if the person claiming the same fails to pay the amount due for the said expenses and any customs-duties or other charges properly incurred by the Government in respect thereof,

the Government may sell such thing by public auction, if it is of a perishable nature, forthwith, and, if it is not of a perishable nature, at any time not less than six months after publishing such notification as aforesaid.

**Proceeds
how applied**

6. On realizing the proceeds of such sale, the amount due for expenses and charges as aforesaid, together with the expenses of the sale, shall be deducted therefrom, and the surplus (if any) shall be paid to the owner of the thing sold, or, if no such person appear and claim such surplus, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same:

Provided that he makes the claim within one year from the date of the sale.

**“Vessel” to
include
tackle,
cargo, etc.**

7. For the purposes of this Act, the term “vessel” shall be deemed to include also every article or thing or collection of things being or forming part of the tackle, equipment, cargo, stores or ballast of a vessel; and any proceeds arising from the sale of a vessel, and of the cargo thereof, or of any other property recovered therefrom, shall be regarded as a common fund.