

The Tanks Improvement Act, 1939 (Bengal Act).

(ACT NO. XV OF 1939)

An Act to provide for the improvement of tanks in Bangladesh for purposes of irrigation. ¹

WHEREAS it is expedient to provide for the improvement of tanks in Bangladesh for purposes of irrigation;

It is hereby enacted as follows:-

**Short title,
extent and
commencement**

1. (1) This Act may be called the ²[* * *] Tanks Improvement Act, 1939.

(2) It extends to the whole of Bangladesh.

(3) It shall come into force in such areas on such dates as the Government may, by notification in the official Gazette, direct.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,-

³[(a1) "agricultural land" includes land used for the growing of vegetables and the like and also waste land which is capable of cultivation but does not include a fruit garden, an orchard or any homestead land;]

(1) "authorised person" means the Collector, a local authority, co-operative society, or any other person who takes possession of a tank under the provisions of this Act and includes the successors-in-interest of such a person;

(2) "Collector" includes a ⁴[Upazila Nirbahi Officer] and any officer appointed by the Government to exercise all or any of the functions of a Collector under this Act;

(3) "co-operative society" means a society registered under the ⁵[* * *] Co-operative Societies Act, 1940;

(4) "derelict tank" means a tank which has been declared to be a derelict tank under section 4;

(5) "period of possession" means the period from the time when possession is first taken of a tank under section 5 or section 6 until the time when possession thereof is restored under section 21;

⁶[(5a) "person having control over a tank" does not include a person by whom the tank is held for a limited time and whose interest in the tank is not transferable;]

(6) "prescribed" means prescribed by rules made under this Act;

(7) "tank" means a reservoir, or place which has been used as a reservoir, for the storage of water whether formed by excavation or by the construction of one or more embankments or place where water naturally accumulates, and includes any part of a tank and the banks thereof except such portions of the banks as are homestead, garden or orchard lands.

Requisition by Collector to carry out improvements in certain tanks

3. If the Collector is of opinion that any tank has fallen into disrepair or disuse, he may serve a notice in the prescribed form and manner on the person having control over the tank requiring him to carry out within a period specified in the notice such improvements of the tank as the Collector considers necessary for the proper utilisation of the tank for purposes of irrigation and pisciculture.

Declaration of a tank to be a derelict tank

4. (1) If the improvements referred to in section 3 are not carried out to the satisfaction of the Collector within the period specified in the notice issued under that section or within such further period as the Collector may, on application made to him in this behalf, think fit to allow, the Collector may, by a notice to the person having control over the tank, and otherwise published in the prescribed form and manner, declare the tank to be a derelict tank.

(2) Every notice issued under sub-section (1) shall state the boundaries of the tank which is declared to be a derelict tank or the number entered in the record-of-rights finally published ⁷[under Chapter IV of the State

Acquisition and Tenancy Act, 1950] of the survey plot comprising such tank.

(3) A copy of every notice published under sub-section (1) shall be posted up in a conspicuous place near the tank, together with an intimation that any objections to the issue of the notice received by the Collector within one month from the date when it is so posted up, will be taken into consideration.

(4) On the expiry of the said period of one month, the Collector, after considering the objections, if any, shall confirm or withdraw the notice.

(5) A notice published under this section shall, unless and until it is withdrawn, be conclusive evidence of the fact that the tank to which it relates is a derelict tank within the meaning of this section.

Power to Collector in respect of a derelict tank

5. After the notice declaring a tank to be a derelict tank has been confirmed under section 4 the Collector, if he thinks fit, may at any time-

(a) take possession of the tank and carry out the improvements, specified in the notice under section 3, or

(b) authorise under section 6 a local authority, co-operative society, or any other person interested to take such action.

Order for possession of, and improvements in, a derelict tank

6. (1) Any local authority or co-operative society, or any other person who, in the opinion of the Collector, has an interest in a derelict tank, may, if authorised by the Collector by an order in writing in this behalf, take possession of such tank and carry out the improvements specified in the notice under section 3.

(2) In making an order under sub-section (1) the Collector shall, except for sufficient reason to be recorded in writing, give preference to the sole owner or any co-sharer owner of the tank who has submitted an application stating that he is willing to carry out the said improvements or he may make an order in favour of more than one such co-sharer owner jointly.

(3) An order under sub-section (1) shall be in such form and shall contain such particulars and conditions as may be prescribed.

Order for possession of lands adjoining a derelict tank for carrying out improvements in such tank

⁸[6A. (1) If any authorised person considers it necessary for the purpose of carrying out the improvements in a derelict tank to take possession of any land adjoining such tank, he may,-

(a) if he is the Collector, take possession of such land by order in writing; and

(b) if he is not the Collector, apply in the prescribed manner to the Collector to be empowered to take possession of such land and the Collector may, if he is satisfied after considering the application that such land is required for carrying out the improvements, empower the authorised person by order in writing to take possession of such land:

Provided that the Collector shall not take possession or empower any authorised person to take possession of such land without giving in the prescribed manner the person in possession of such land reasonable opportunity of making any representation he may like to make and without considering any representation so made.

(2) Every order made under sub-section (1) shall specify the boundaries of the land to which it relates or the number entered in the record-of-rights finally published ⁹[under Chapter IV of the State Acquisition and Tenancy Act, 1950] of the survey plot comprising such land and shall be in such form as may be prescribed.]

Cancellation of order under section 6

7. (1) If any authorised person-

(a) fails to carry out the improvements to the satisfaction of the Collector within such time as may be specified in the order under section 6, or

(b) fails, in the opinion of the Collector, to proceed with the improvements with due diligence or to maintain the tank in proper condition, or

(c) with or without the permission of the Collector gives up possession of the tank or abandons the work of improvement, or

(d) is, in the opinion of the Collector, guilty of any serious negligence or misconduct in relation to the tank or to persons having any right or interest in the tank or in the use of water thereof, or

(e) fails to comply with any order passed under section 26 or section 27, the Collector may cancel the order made under section 6 as well as any order made under clause (b) of sub-section (1) of section 6A, and thereupon all rights and powers of the said authorised person in respect of the tank and in respect of any land of which possession is taken as a result of an order made under clause (b) of sub-section (1) of section 6A shall cease and determine, and the Collector shall take possession of the tank and such land.

(2) After taking possession of the tank and such land under sub-section (1) the Collector shall either appoint another authorised person to carry out the improvements or carry them out himself.

Authorised person to retain possession of a derelict tank for a period not exceeding twenty years

8. Subject to the provisions of this Act, an authorised person shall be entitled to remain in possession of a derelict tank for such period as the Collector may determine after consideration of the time necessary to compensate the authorised person for the cost incurred in the improvements carried out together with interest thereon at the rate of ¹⁰[fifteen] per centum per annum, but not exceeding twenty years from the date on which he takes possession thereof under section 5 or section 6:

Provided that the Collector, upon application made or of his own motion, after considering the views of the authorised person, may at any time reduce the period of possession determined by him under this section or extend such period subject to the maximum limit of twenty years referred to in this section, according as it appears that the costs incurred-

(a) by the Collector in carrying out the purposes of this Act in respect of the tank, and

(b) by the authorised person in carrying out the required improvements in the tank,