



## The Bengal Waterways Act, 1934

Act 12 of 1934

**Keyword(s):**

**Board, Chairman, Channel, District Board, District Member, Goods, Line of Navigation, Local Board, Navigable Channel, Owner, Port Commissioners, Stream Vessel, Union Board, Vessel**

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# Bengal Act XII of 1934

## THE BENGAL WATERWAYS ACT, 1934.

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## Bengal Act XII of 1934

### [THE BENGAL WATERWAYS ACT, 1934.]<sup>1</sup>

ADAPTED

- (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.

[21st June, 1934.]

*An Act to provide for the maintenance and improvement of waterways in Bengal.*

WHEREAS it is expedient to make better provision for the maintenance and improvement of waterways in Bengal for purposes of navigation;

AND WHEREAS it is expedient that a Board of Trustees should be constituted and invested with special powers for carrying out the objects of this Act;

AND WHEREAS the previous sanction of the Governor General has been obtained under sub-section (3) of section 80A of the Government of India Act to the passing of this Act;

It is hereby enacted as follows:—

#### CHAPTER I

##### Preliminary.

1. (1) This Act may be called the Bengal Waterways Act, 1934.
- (2) It shall come into force on such date as the <sup>2</sup>[State Government] may, by notification, appoint.
- (3) It extends to the whole of <sup>3</sup>[West Bengal].

Short title, commencement and extent.

<sup>1</sup>For Statement of Objects and Reasons, see the *Calcutta Gazette* of 1933, Pt. IV, page 135; and for Report of the Select Committee, see *ibid*, 1934, Pt. IV, page 28; and for Proceedings of the Council, see the Proceedings of the Bengal Legislative Council, Vol. XLII, No. 1, page 282, and *ibid*. Vol. XLIII, No. 2, pages 168, 187, 233 and 284 and *ibid*, No. 3, pages 28, 65 and 111.

<sup>2</sup>The words "Provincial Government" were originally substituted for the words "Local Government" by para. 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

<sup>3</sup>The words within square brackets were substituted for the word "Bengal" by Art. 3(2) of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.



## (Chapter I.—Preliminary.—Section 2.)

Definitions.

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

- (a) "Board" means the Bengal Waterways Board constituted under this Act;
- (b) "Chairman" means the Chairman of the Board;
- (c) "channel" includes any river, *beel*, *khal*, *nulla*, or waterway, whether natural or artificial;
- (d) "District Board" means a District Board constituted under the Bengal Local Self-Government Act of 1885;
- (e) "district member" means a person elected under section 11 by a district committee to represent the district committee on the Board;
- (f) "goods" includes wares and merchandise of every description;
- (g) "line of navigation" means any navigable channel subject to the provisions of this Act or of the Canals Act, 1864;
- (h) "Local Board" means a Local Board constituted under the Bengal Local Self-Government Act of 1885;
- (i) "navigable channel" means any channel which is navigable during the whole or a part of the year by a vessel of two-foot draught or over;
- (j) "notification" means a notification published in the <sup>1</sup>[*Official Gazette*];
- (k) "owner" of a vessel includes a company owning the vessel, and also includes the managing director or principal officer of such company and the principal servant of an owner, who are resident in <sup>2</sup>[West Bengal];
- (l) "Port Commissioners" means the Commissioners for the Port of Calcutta, constituted under the Calcutta Port Act, 1890;
- (m) "steam vessel" means every description of vessel propelled, wholly or in part, by mechanical power;
- (n) "Union Board" means a Union Board established under the Bengal Village Self-Government Act, 1919; and
- (o) "vessel" includes any raft or craft, timber, bamboos or floating materials, propelled in any manner.

Ben. Act III  
of 1885.Ben. Act V  
of 1864.Ben. Act III  
of 1890.Ben. Act V  
of 1919.

<sup>1</sup>The words within square brackets were substituted for the words "*Calcutta Gazette*" by para. 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>2</sup>See foot-note 3 on page 277, *ante*.

[1934.]

(Chapter II.—The West Bengal Waterways Board.—Sections 3-7.)

CHAPTER II

The <sup>1</sup>[West Bengal] Waterways Board.

*Constitution of the Board.*

3. The duty of carrying out the provisions of this Act shall, subject to the conditions and limitations hereinafter contained, be vested in a Board to be called "The <sup>1</sup>[West Bengal] Waterways Board"; and such Board shall be a body corporate and have perpetual succession and a common seal, and shall by the said name sue and be sued.

Creation and incorporation of the Board.

4. The Board shall consist of twelve Trustees and of such district members, not exceeding three in number, as may from time to time be elected under section 11.

Constitution of the Board.

5. The twelve Trustees shall be—

Appointment of Trustees.

- (a) a Chairman;
- (b) the Chairman of the Port Commissioners or a person appointed under section 7;
- (c) a member of the Bengal Chamber of Commerce;
- (d) two members of such bodies as may be nominated from time to time by the <sup>2</sup>[State Government] as representing the interests of the Indian Mercantile Community;
- (e) two members of the <sup>1</sup>[West Bengal] Legislative <sup>3</sup>[Assembly];
- (f) two representatives of the District Boards;
- (g) three persons to be appointed by the <sup>2</sup>[State Government], of whom not more than one shall be appointed to represent the interests of persons carrying on the business of transport by water within the jurisdiction of the Board.

6. The first Chairman shall be appointed by the <sup>2</sup>[State Government] by notification and subsequent Chairman shall be appointed by the <sup>2</sup>[State Government] after consultation with the Board:

The Chairman.

Provided that when the <sup>2</sup>[State Government] appoints an official, he shall be an officer drawing a salary of not less than one thousand five hundred rupees a month.

7. The Chairman of the Port Commissioners shall be a Trustee *ex-officio*. With the consent of the Port Commissioners, he may appoint another person in his place to perform his duties as a Trustee.

The Chairman of the Port Commissioners.

<sup>1</sup>See foot-note 3 on page 277, *ante*.

<sup>2</sup>See foot-note 2 on page 277, *ante*.

<sup>3</sup>This word was substituted for the word "Council" by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937.

*(Chapter II.—The West Bengal Waterways Board.—Sections 8-10.)*Election of  
other  
Trustees.

8. (1) The member of the Bengal Chamber of Commerce referred to in clause (c) of section 5 shall be elected by that Chamber.

(2) The members referred to in clause (d) of section 5 shall be elected by the bodies mentioned therein.

(3) The members of the <sup>1</sup>[West Bengal] Legislative <sup>2</sup>[Assembly] referred to in clause (e) of section 5 shall be elected by ballot by the members of the <sup>1</sup>[West Bengal] Legislative <sup>2</sup>[Assembly].

(4) The representatives of the District Boards referred to in clause (f) of section 5 shall be elected by the District Boards.

(5) The Secretary to the Bengal Chamber of Commerce, the Secretary to the <sup>1</sup>[West Bengal] Legislative <sup>2</sup>[Assembly], an officer appointed in this behalf by the bodies referred to in clause (d) of section 5 and, in the case of the District Boards, an officer appointed in this behalf by the <sup>3</sup>[State Government], shall respectively make a return, in duplicate, to the Chairman or, if there is no Chairman, to the <sup>3</sup>[State Government], setting forth the name in full of every person elected under this section; and the said return shall be published by notification under the signature of the Chairman or, if there is no Chairman, shall be published by notification by the <sup>3</sup>[State Government].

(6) The election under sub-section (1), sub-section (2) and sub-section (4) shall be regulated by rules made under section 129.

First  
elections.

9. Notwithstanding anything contained in this Act the <sup>3</sup>[State Government] may issue such orders as it may consider necessary to enable the first elections referred to in sub-section (1), sub-section (2) and sub-section (4) of section 8 to be held after the commencement of this Act and in regard to any matter incidental and ancillary thereto.

Appoint-  
ment in  
default of  
election.

10. (1) If any of the bodies of electors referred to in section 8 does not, by such date as may be prescribed by rule made in that behalf under section 129, elect a person to be a Trustee, the <sup>3</sup>[State Government] shall, by notification, appoint—

(a) a person belonging to such body, or

(b) where such body is the <sup>1</sup>[West Bengal] Legislative <sup>2</sup>[Assembly] and the said <sup>2</sup>[Assembly] has been dissolved, such person as it thinks fit to be a Trustee.

(2) Notwithstanding anything contained in sub-section (1), if a person cannot be elected under sub-section (3) of section 8 by the prescribed date by reason of the fact that the <sup>1</sup>[West Bengal] Legislative <sup>2</sup>[Assembly] is not in session or has been dissolved the election shall be held during the next session, and the <sup>3</sup>[State Government] may, by notification, appoint a member of the said <sup>2</sup>[Assembly], or, if the <sup>2</sup>[Assembly] has been dissolved, such person as it thinks fit, to be a Trustee for the intervening period.

<sup>1</sup>See foot-note 3 on page 277, *ante*.

<sup>2</sup>See foot-note 3 on page 279, *ante*.

<sup>3</sup>See foot-note 2 on page 277, *ante*.

of 1934.]

(Chapter II.—The West Bengal Waterways Board.—Sections 11, 12.)

(3) A person appointed under this section shall be deemed to be a Trustee as if he had been duly elected under section 8.

11. A district member shall be elected by a district committee to represent the committee on the Board for the consideration of a district scheme or for the consideration under proviso (c) to section 68 of a major work other than a district scheme:

Election of a district member by a district committee.

Provided that if more than three districts are concerned in one and the same district scheme, the Chairman shall decide which three districts shall elect district members for the purpose of such scheme.

12. (1) A person shall be disqualified for being appointed or elected a Trustee or a district member if he—

Disqualifications for being appointed or elected a Trustee or district member.

- (a) has been convicted by any Court for any non-bailable offence or any offence which, in the opinion of the <sup>1</sup>[State Government], involves moral turpitude, provided that such conviction is not subsequently reversed or set aside, or such disqualification is not removed by an order which the <sup>1</sup>[State Government] is hereby empowered to make in this behalf if it thinks fit; or
- (b) is of unsound mind; or
- (c) is an undischarged insolvent; or
- (d) holds any office or place of profit under the Board; or
- (e) has, directly, or indirectly by himself or by any partner, employer or employee, and share or interest in any contract or employment with, by, or on behalf of, the Board or carries on the business of transport by water within the jurisdiction of the Board; or
- (f) is a director, or a secretary, manager or other salaried officer, of any incorporated company which has any share or interest in any contract or employment with, by, or on behalf of, the Board or carries on the business of transport by water within the jurisdiction of the Board.

(2) But a person shall not be disqualified as aforesaid, or be deemed to have any share or interest in such contract or employment as aforesaid, by reason only of his having a share or interest in—

- (i) any sale, purchase, lease or exchange of land, or any agreement for the same; or
- (ii) any agreement for the loan of money, or any security for the payment of money only; or
- (iii) any newspaper in which any advertisement relating to the affairs of the Board is inserted; or

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<sup>1</sup>See foot-note 2 on page 277, ante.

(Chapter II.—The West Bengal Waterways Board.—Sections 13-15.)

- (iv) the occasional sale to the Board, to a value not exceeding two thousand rupees in any one financial year, of any article in which he trades;

or by reason only of his having a share or interest, otherwise than as a director, or secretary, manager or other salaried officer, in any incorporated company which has any share or interest in any contract or employment with, by, or on behalf of, the Board or carries on the business of transport by water within the jurisdiction of the Board.

(3) Notwithstanding anything contained in sub-section (1), a person appointed under clause (g) of section 5 to represent the interests of persons carrying on the business of transport by water shall not be disqualified as aforesaid by reason only of his carrying on such business or being a director or salaried officer of any company carrying on such business.

#### The Chairman of the Board.

Term of  
appointment  
of the  
Chairman.

13. The Chairman shall be appointed for a term of three years, and may be re-appointed for a further term or terms each not exceeding two years.

Remunera-  
tion of  
Chairman.

14. (1) The Chairman shall receive such pay not exceeding two thousand five hundred rupees *per mensem* as may be fixed by the <sup>1</sup>[State Government].

<sup>2</sup>(2) The word "pay", as used in this section, does not include any contribution payable on account of a Chairman who is a servant of the <sup>3</sup>[Government] under the rules regulating his transfer to foreign service.

(3) The <sup>1</sup>[State Government] may, if it thinks fit, direct the payment to the Chairman of a house-rent allowance, not exceeding two hundred rupees *per mensem*, in addition to his pay, and shall determine on what scale and subject to what conditions he may draw travelling allowance.

The  
Chairman to  
be a whole-  
time officer.

15. While any person is holding the office of Chairman for which he receives pay he shall not hold any other salaried office, and, subject to any exceptions, permitted by the <sup>1</sup>[State Government], shall devote his whole time and attention to his duties under this Act.

<sup>1</sup>See foot-note 2 on page 277, *ante*.

<sup>2</sup>Sub-section (2) was substituted for the original sub-section (2) by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>3</sup>The word "Government" was substituted for the word "Crown" by para. 4(1) of the Adaptation of Laws Order, 1950.

of 1934.]

(Chapter II.—The West Bengal Waterways Board.—Sections 16-20.)

16. Notwithstanding anything contained in this Act, the '[State Government] may, if it thinks fit, appoint a person to be Chairman without pay for one or more periods each not exceeding one year.

Appoint-  
ment of  
unpaid  
Chairman.

17. (1) The '[State Government] may, after consultation with the Board, grant leave of absence to the Chairman, or depute him to other duties, for such period as it thinks fit.

Leave of  
absence or  
deputations  
of the  
Chairman.

(2) The allowance (if any) to be paid to the Chairman while absent on leave or deputation shall be such amount, not exceeding his pay, as may be fixed by the '[State Government]:

Provided that, if the Chairman is <sup>2</sup>[a servant of the Government], the amount of such allowance shall be such as he may be entitled to <sup>3</sup>[under the conditions of his service under the Government regulating his transfer to foreign service].

18. (1) Whenever the Chairman is granted leave of absence or deputed to other duties, the '[State Government] may appoint a person to act as Chairman.

Appoint-  
ment, etc., of  
acting  
Chairman.

(2) The pay and house-rent allowance or any other allowance (if any) of any person appointed to act as Chairman shall be fixed by the '[State Government], subject to the provisions of sections 14 and 16.

(3) Any person appointed to act as Chairman shall exercise the powers and perform the duties conferred and imposed by and under this Act on the Chairman, and shall be subject to the same liabilities, restrictions and conditions as the Chairman.

19. If at any time it appears to the '[State Government] that the Chairman has shown himself to be unsuitable for his office, or has been guilty of any misconduct or neglect which renders his removal expedient, it may, by notification, declare that the Chairman shall cease to hold office as such.

Removal of  
the  
Chairman.

*The Trustees.*

20. The Board may permit any Trustee, other than the Chairman, the Chairman of the Port Commissioners or a person appointed under section 7, to absent himself from meetings of the Board for any period not exceeding six months.

Leave of  
absence to  
other  
Trustees.

<sup>1</sup>See foot-note 2 on page 277, ante.

<sup>2</sup>The words "a servant of the Crown" were originally substituted for the words "a Government officer" by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "Government" was substituted for the word "Crown" by para. 4(1) of the Adaptation of Laws Order, 1950.

<sup>3</sup>The words "under the conditions of his service under the Crown regulating his transfer to foreign service" were originally substituted for the words "under any general or special orders of the Government for regulating the transfer of Government servants to foreign service" by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "Government" was substituted for the word "Crown" by para. 4(1) of the Adaptation of Laws Order, 1950.

*(Chapter II.—The West Bengal Waterways Board.—Sections 21-23.)*Removal of  
Trustees.

21. (1) The <sup>1</sup>[State Government] may, by notification, declare that any Trustee shall cease to be a Trustee—

- (a) if he has been absent from, or is unable to attend, the meetings of the Board for any period exceeding six consecutive months, or
- (b) if he has, without the permission of the Board, been absent from three consecutive meetings of the Board.

(2) The <sup>1</sup>[State Government] shall, by notification, declare that a Trustee shall cease to be a Trustee—

- (i) if he has become disqualified for appointment or election as a Trustee for any of the reasons mentioned in section 12; or
- (ii) if he was elected or appointed as being a member of the <sup>2</sup>[West Bengal] Legislative <sup>3</sup>[Assembly], the Bengal Chamber of Commerce, a District Board or a body referred to in clause (d) of section 5 and if he is, at the date of such notification, no longer a member of such <sup>4</sup>[Assembly], Chamber, Board or body, as the case may be; or
- (iii) if he has acted in contravention of section 36.

Filling of  
casual  
vacancies in  
certain  
cases.

22. If any Trustee is permitted by the Board to absent himself from meetings of the Board for any period exceeding three months, or if any Trustee, other than the Chairman of the Port Commissioners, dies, or resigns the office of Trustee, or ceases to hold the office of Trustee in pursuance of a notification published under section 21, the vacancy shall be filled, within one month, by a fresh election or appointment under section 8 or section 10, as the case may be.

Term of  
office of  
Trustees.

23. (1) The term of office of the first Trustees elected or appointed under section 8 or section 10 shall commence on such day as may be appointed by the <sup>1</sup>[State Government].

(2) Subject to the provisions of sub-section (2) of section 10 and section 21, the term of office of Trustees (other than the Chairman and the Chairman of the Port Commissioners) shall be as follows:—

- (a) a Trustee appointed or elected in pursuance of section 22 in the place of a Trustee who has been permitted to absent himself from meetings of the Board—the period of the absence of the latter Trustee;
- (b) other Trustees—three years.

<sup>1</sup>See foot-note 2 on page 277, *ante*.

<sup>2</sup>See foot-note 3 on page 277, *ante*.

<sup>3</sup>See foot-note 3 on page 279, *ante*.

of 1934.]

(Chapter II.—The West Bengal Waterways Board.—Sections 24, 25.)

(3) Any Trustee shall, if not disqualified for any of the reasons mentioned in section 12, be eligible for re-appointment or re-election at the end of his term of office.

*Officers and servants.*

24. The Board shall from time to time determine—

- (a) the number, designations and grades of the officers and servants (other than employees who are paid by the day or whose pay is directly charged to work) whom they consider it necessary and proper to employ for the purposes of this Act:

Provided that the engineering staff of the Board shall include a Chief Engineer and one or more Executive Engineers to be designated Waterways Executive Engineers,

- (b) the amount and nature of the pay, fees and allowances to be paid to each such officer and servant.

25. The Board shall from time to time make rules—

- (a) fixing the amount and nature of the security to be furnished by any officer or servant of the Board from whom it may be deemed expedient to require security;
- (b) for regulating the grant of leave of absence, leave allowances and acting allowances to the officers and servants of the Board; and
- (c) for establishing and maintaining a provident or annuity fund, for compelling all or any of the officers or servants of the Board (other than any <sup>1</sup>[servant of the Government] in respect of whom a contribution is paid under section 136) to contribute to such fund, at such rates and subject to such conditions as may be prescribed by such rules, and for supplementing such contributions out of the funds of the Board:

Provided that a <sup>2</sup>[servant of the Government] employed as an officer or servant of the Board shall not be entitled to leave or leave allowances otherwise than as may be prescribed in <sup>3</sup>[the conditions of his service under the Government regulating his transfer to foreign service].

Strength and remuneration of staff.

Board to make rules.

<sup>1</sup>The words "servant of the Crown" were originally substituted for the words "servant of the Government" by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "Government" was substituted for the word "Crown" by para. 4(1) of the Adaptation of Laws Order, 1950.

<sup>2</sup>The words "servant of the Crown" were originally substituted for the words "Government servant" by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "Government" was substituted for the word "Crown" by paragraph 4(1) of the Adaptation of Laws Order, 1950.

<sup>3</sup>The words "the conditions of his service under the Crown regulating his transfer to foreign service" were originally substituted for the words "any general or special orders of the Government for regulating the transfer of Government servants to foreign service" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "Government" was substituted for the word "Crown" by para. 4(1) of the Adaptation of Laws Order, 1950.



*(Chapter II.—The West Bengal Waterways Board.—Sections 26-29.)*

Powers of appointment, etc., in whom vested.

26. Subject to any orders made by the Board under section 24 and any rules made under section 25, and for the time being in force, the power of appointing, promoting and granting leave to officers and servants of the Board, and reducing, suspending or dismissing them for misconduct, and dispensing with their services for any reason other than misconduct shall be vested—

- (a) in the case of officers and servants holding posts the maximum monthly pay of which does not exceed one hundred and fifty rupees—in the Chairman, and
- (b) in other cases—in the Board:

Provided that any officer or servant holding a post the maximum monthly pay of which exceeds fifty rupees, who is reduced, suspended or dismissed by the Chairman, may appeal to the Board, whose decision shall be final.

State Government to sanction certain posts, etc.

27. (a) The creation or abolition of any post the maximum monthly pay of which exceeds five hundred rupees,
- (b) all rules made under clause (b), or clause (c) of section 25, and
- (c) all orders passed by the Board under section 26 and relating to any officer appointed to hold a post the maximum monthly pay of which exceeds five hundred rupees, except orders granting leave to, or suspending, any such officer,

shall be subject to the previous sanction of the <sup>1</sup>[State Government].

Control by Chairman.

28. The Chairman shall exercise supervision and control over the acts and proceedings of all officers and servants of the Board, and, subject to the provisions of this Act, shall dispose of all questions relating to the service of the said officers and servants, and their pay, privileges and allowances.

Delegation of certain of Chairman's functions.

29. (1) The Chairman may, by general or special order in writing, delegate to any officer of the Board any of the Chairman's powers, duties or functions under this Act or any rule made thereunder, except those conferred or imposed upon, or vested in him by sections 30, 32, 34, 39, 85, 101, 174, 108, 110 and 137:

Provided as follows:—

- (a) the Chairman shall not delegate his power under section 26 to make appointments to any office the maximum monthly pay of which exceeds fifty rupees;

<sup>1</sup>See foot-note 2 on page 277, ante.

of 1934.]

(Chapter III.—Conduct of business.—Sections 30-32.)

(b) the Chairman shall not delegate to any officer his power under section 26 to grant leave to, or to reduce, suspend, dismiss, or dispense with the services of, any employee, unless such employee was appointed by such officer by virtue of a delegation of the Chairman's powers of appointment conferred by that section.

(2) The exercise or discharge by any officer of any powers, duties or functions delegated to him under sub-section (1) shall be subject to such conditions and limitations (if any) as may be prescribed in the said order, and also to control and revision by the Chairman.

CHAPTER III

Conduct of business.

30. (1) An ordinary meeting of the Board shall be held at least once in every month.

Meetings of the Board.

(2) The Chairman may, whenever he thinks fit, and shall, upon the written request of not less than two other Trustees, call a special meeting.

31. Subject to the provisions of sections 11, 66, 68 and 72 district members shall be summoned, in accordance with rules made under section 129, to attend meetings of the Board at which district schemes are to be considered.

District members to be summoned to attend certain meetings of the Board.

32. (1) The Chairman shall attend every meeting of the Board unless absent on leave or prevented by sickness or other reasonable cause.

The Chairman to attend every meeting of the Board.

(2) No business shall be transacted at any meeting unless at least five Trustees other than the Chairman are present from the beginning to the end of the meeting:

Provided that if a quorum is not present within half an hour after the time appointed for a meeting, or at any time during a meeting, the meeting shall stand adjourned to some future day to be appointed by the Chairman. At such adjourned meeting, or at any subsequent adjourned meeting at which the same business is to be transacted, the Chairman and two other Trustees present shall form a quorum.

(3) The person to preside at a meeting shall be the Chairman, or, in his absence from any meeting, the Trustees present shall choose one of their number to preside.

(4) All questions shall be decided by a majority of votes of the Trustees and district members, if any, present, the person presiding having a second or casting vote in all cases of equality of votes.

*(Chapter III.—Conduct of business.—Sections 33, 34.)*

(5) If a poll be demanded, the names of the Trustees and district members voting, and the nature of their votes, shall be recorded by the person presiding.

(6) Minutes of the names of the Trustees and district members present, and of the proceedings, at each meeting shall be kept in a book to be provided for the purpose, which shall be signed at the next ensuing meeting by the person presiding at such meeting and shall be open to inspection by any Trustee or member of a district committee during office hours.

Constitution  
and functions  
of  
committees.

33. (1) The Board may from time to time appoint committees, consisting of such persons of any of the following classes as they may think fit, namely:—

- (i) Trustees,
- (ii) members of district committees,
- (iii) other persons whose assistance or advice the Board may desire:

Provided that no committee shall consist of less than three persons.

(2) The Board may—

- (a) refer to such committees, for enquiry and report, any matter relating to any of the purposes of this Act, and
- (b) delegate to such committees, by specific resolution and subject to any rules made under section 129, any of the powers or duties of the Board.

(3) The Board may at any time dissolve, or subject to the proviso to sub-section (1), alter the constitution of, any such committee.

(4) Every such committee shall conform to any instructions from time to time given to them by the Board.

(5) All proceedings of any such committee shall be subject to confirmation by the Board.

Meetings of  
committees.

34. (1) Committees appointed under section 33 may meet and adjourn as they think proper; but the Chairman may, whenever he thinks fit, call a special meeting of any committee, and shall call a special meeting of any committee upon the written request of not less than two members thereof.

(2) The person to preside at a meeting of a committee shall be the Chairman, if he is a member of the committee, or, if he is not a member, the Board shall appoint a member of the committee to preside. If the Chairman or the person so appointed, as the case may be, is absent, the members present shall choose one of their number to preside.

of 1934.]

(Chapter III.—Conduct of business.—Sections 35, 36.)

(3) No business shall be transacted at any meeting of a committee unless at least half the number of the members of the committee are present from the beginning to the end of the meeting.

(4) All questions at any meeting of a committee shall be decided by a majority of votes of the members present, the person presiding having a second or casting vote in all cases of equality of votes.

35. (1) Subject to the provisions of sub-sections (2) and (3)—

(a) every Trustee, and every district member, attending a meeting of the Board shall be entitled to receive a fee of sixteen rupees, and every member of a committee appointed under section 33 shall be entitled to receive a fee of eight rupees, for each meeting of the Board or the committee—

(i) at which business is transacted, and

(ii) which he attends from the beginning to the end thereof, or for such period as the person presiding at the meeting may consider sufficient to justify the payment of the fee:

Provided that no [servant of the Government] shall be entitled to any fees for attending a meeting.

(b) Trustees, district members and members of committees appointed under section 33 shall be entitled to receive travelling allowance, in such cases and at such rates as may be prescribed by rules made under section 129, for attending meetings of the Board or of a committee.

(2) Neither the Chairman, if he be a whole-time paid officer, nor any officer or servant of the Board shall be entitled to receive any fee or travelling allowance under this section.

(3) The aggregate amount of fees and travelling allowance payable under this section to any person in respect of meeting of any kind held during any month shall not exceed such sum as may be prescribed by rules made under section 129.

36. (1) A Trustee or a district member who—

(a) has, directly or indirectly, by himself or by any partner, employer or employee, any such share or interest as is described in sub-section (2) of section 12 in respect of any matter, or

Fees and travelling allowance for attendance at meetings.

Trustees and district members not to take part in proceedings of the Board in which they are personally interested.

<sup>1</sup>See foot-note 2 on page 285. *ante*.

*(Chapter III.—Conduct of business.—Sections 37-39.)*

- (b) has acted professionally, in relation to any matter on behalf of any person having therein any such share or interest as aforesaid.

shall not vote or take any other part in any proceeding of the Board relating to such matter.

Power to make and perform contracts.

37. The Board may enter into and perform all such contracts as they may consider necessary or expedient for carrying out any of the purposes of this Act.

Execution of contracts and approval of estimates.

38. (1) Every estimate of expenditure shall be sanctioned and every contract shall be made on behalf of the Board by the Chairman or other officer of the Board in accordance with rules made under section 129:

Provided that an estimate or contract for a project or for a work chargeable to a particular project, shall not be sanctioned or made without the approval of—

- (a) the Board, if such estimate or contract involves expenditure of more than ten thousand rupees;
- (b) the <sup>1</sup>[State Government], if such estimate or contract involves expenditure of more than fifty thousand rupees:

Provided further that the total amount of such estimates sanctioned in respect of works chargeable to a particular project shall not exceed the estimated cost of the total project as approved by the competent authority.

(2) Sub-section (1) shall apply to every variation or abandonment of an estimate or contract as well as to an original estimate or contract.

Supply of documents and information to the Government.

39. (1) The Chairman shall furnish the <sup>1</sup>[State Government] with a copy of the minutes of the proceedings of every meeting of the Board within ten days after the person presiding has signed such minutes under sub-section (6) of section 32.

(2) The Chairman, if so required by the <sup>1</sup>[State Government] shall furnish it with—

- (a) a copy of any paper laid before the Board for consideration at any meeting; or
- (b) any return, statement, estimate, statistics or other information regarding any matter under the control of the Board; or
- (c) a report on any such matter; or
- (d) a copy of any document in the charge of the Chairman.

<sup>1</sup>See foot-note 2 on page 277. ante.

of 1934.]

(Chapter IV.—Powers and duties of the Board.—Sections 40, 41.)

CHAPTER IV

Powers and Duties of the Board.

40. (1) The Board shall take charge of such machinery, tools, dredgers, vessels and their equipment as the <sup>1</sup>[State Government] may make over to them free of cost, subject to such restrictions as regards sale or disposal thereof as may be determined by the <sup>1</sup>[State Government], and subject to such financial arrangements as may be made between the Board and the <sup>1</sup>[State Government] as regards maintaining, or repairing the same. The Board shall thereupon bear all necessary expenses in maintaining, repairing, altering, improving or working the same:

The Board to control and administer navigable channels and navigation works with lands, etc., appertaining to them.

Provided that—

- (a) the Board shall not be liable to pay any interest on the capital cost of such articles or to repay any loan incurred by the <sup>1</sup>[State Government] for the purchase thereof;
- (b) if any such articles are employed on work for the <sup>1</sup>[State Government], it shall pay to the Board only the actual working expenses incurred by them.

(2) The <sup>1</sup>[State Government] may, by notification, declare which of the navigable channels, other than canals as defined in the Bengal Irrigation Act, 1876, and the navigation works and the lands, buildings, locks, sluices and other works appertaining thereto held by or under the control or administration of the <sup>1</sup>[State Government] shall, for the purposes of this Act, be controlled and administered by the Board:

Ben. Act III of 1876.

Provided that no navigable channel within such limits as may have been declared under the Indian Ports Act, 1908, to be the limits of the <sup>2</sup>[Port of Calcutta], and of the navigable rivers and channels leading to the <sup>3</sup>[said port] shall be placed under the control and administration of the Board.

XV of 1908.

41. The Board may—

- (a) with the previous sanction of the <sup>1</sup>[State Government], assume the control and administration of any other channel not being a canal as defined in the Bengal Irrigation Act, 1876, and not held by or under the control or administration of the <sup>1</sup>[State Government], and maintain it for the purposes of this Act:

Power of the Board in regard to navigable channels.

Provided that if, under the provisions of the Canals Act, 1864, any local authority or person has constructed or improved a navigable channel or has been appointed

Ben. Act V of 1864.

<sup>1</sup>See foot-note 2 on page 277. *ante*.

<sup>2</sup>The words within square brackets were substituted for the words "Ports of Calcutta and Chittagong" by Art. 3(1) of, and the Schedule to, the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

<sup>3</sup>The words within square brackets were substituted for the words "said ports". *ibid*.

*(Chapter IV.—Powers and duties of the Board.—Section 41.)*

to collect tolls on any line of navigation, the Board on assuming control of such navigable channel or line of navigation shall pay such compensation to the local authority or person as the Collector may decide, and shall thereupon become entitled to collect such tolls:

Provided further that an appeal shall lie to the Commissioner from a decision of the Collector on the question of compensation within sixty days from the date thereof and subject to the result of such appeal the decision of the Collector shall be final;

- (b) for the purposes of this Act—
- (i) make and open new navigable channels,
  - (ii) clear, widen, deepen, divert or otherwise improve existing channels which are under the control and administration of the Board,
  - (iii) construct locks, sluices, wharves, jetties, landing stages, warehouses, sheds, sidings, towpaths and other works, whether protective or otherwise,
  - (iv) provide dredgers and other plant,
  - (v) clear or destroy water-hyacinth in any district where there are navigable channels under the control and administration of the Board, and
  - (vi) do all other acts necessary for the making and maintenance of such channels or for the safety and convenience of navigation or for improvement of waterways:

Provided that the <sup>1</sup>[State Government] may prohibit any such action if it considers that it is likely to cause damage or to be detrimental to agriculture or public health:

Provided also that the Board shall not do any act in contravention of the provisions of section 76 of the Bengal Embankment Act, 1882, without the previous sanction of the officer mentioned therein;

- (c) with the previous sanction of the <sup>1</sup>[State Government], turn, divert, abandon or close any channel under the control and administration of the Board;
- (d) construct, purchase, or hire offices, toll-houses, quarters for officers and servants and any other building required for the operations of the Board;
- (e) control navigation and traffic upon lines of navigation which are under the control and administration of the Board, and employ such establishment as may be necessary for the purpose;

Ben. Act II  
of 1882.

<sup>1</sup>See foot-note 2 on page 277. *ante*.

of 1934.]

{Chapter IV.—Powers and duties of the Board.—Sections 42-46.—  
Chapter V.—District committees.—Section 47.}

- (f) contribute towards the cost of any work which is executed or to be executed by another authority and is likely to improve a line of navigation under the control of the Board or to benefit navigation.

42. If the '[State Government] is of opinion that any channel which is under the control and administration of the Board under section 40 or section 41 should be under the control and administration of the '[State Government] for any purpose other than navigation, it may—

Power of State Government to control channels in certain cases.

- (a) withdraw such channel from the control and administration of the Board and assume control thereof both for navigation and such other purpose, or  
(b) impose conditions for the purpose of regulating or restricting the powers of the Board in respect of such channel.

43. It shall be the duty of the Board to make surveys and observations and to record hydraulic and tidal data in respect of all channels under their control and such other places as may be necessary for the maintenance of complete records of such channels.

Duty of the Board to make surveys, etc.

44. The Board may enter into an agreement with any person for the purchase by the Board from such person of any land which the Board are authorised to acquire, or any interest in such land, or for taking on lease such land or interest therein from such person.

Power to purchase or lease by agreement.

1 of 1894.

45. The Board may, with the previous sanction of the '[State Government], acquire land under the provisions of the Land Acquisition Act, 1894, for carrying out any of the purposes of this Act.

Power to acquire land under the Land Acquisition Act, 1894.

46. The Board may retain, or may let on hire, lease, sell, exchange or otherwise dispose of, any land vested in or acquired by them:

Power to dispose of land.

Provided that the Board shall not lease or otherwise alienate any such land for any period exceeding three years without the previous sanction of the '[State Government].

## CHAPTER V

### District committees.

47. In every district in which the '[State Government] so directs a district committee shall be formed, consisting of the following members, namely:—

Formation of a district committee.

- (a) the District Magistrate, *ex-officio*;  
(b) the Chairman of the District Board, *ex-officio*;



(Chapter V.—District committees.—Sections 48-50.)

- (c) the District Engineer, *ex-officio*;
- (d) the Waterways Executive Engineer, *ex-officio*, or a person appointed under section 48;
- (e) not more than three members to be appointed by the '[State Government];
- (f) four members to be elected in the manner prescribed by rules made under section 129 by the District Board of whom two shall be members of Union Boards in the district who are not members of the District Board; and
- (g) if the district contains any municipality which includes any navigable channel within its limits, one member to be elected, in the manner prescribed by rules made under section 129, by the Commissioners of such municipality or municipalities:

Provided that the '[State Government] may direct that the number of municipal representatives to be elected shall be increased from one to two or three.

Appoint-  
ment of  
member in  
place of  
Waterways  
Executive  
Engineer.

48. With the consent of the Board, the Waterways Executive Engineer may appoint another person to perform his duties as a member of the district committee.

Appointment  
in default of  
election.

49 (1) If a body of electors referred to in clause (f) or, where applicable, clause (g) of section 47 does not, within such period as may be prescribed by rules made under section 129, elect a person to be a member of the district committee, the '[State Government] shall, by notification, appoint a person belonging to such body to be a member of the district committee.

(2) A person appointed under this section shall be deemed to be a member of the district committee as if he had been duly elected under section 47.

Disqualifica-  
tions for  
being  
appointed or  
elected a  
member of  
the district  
committee.

50. A person shall be disqualified for being appointed or elected a member of the district committee if he is disqualified for appointment or election as a Trustee for any of the reasons mentioned in section 12;

Provided that a Waterways Executive Engineer or a person appointed under section 48 shall not be disqualified from being a member of the district committee by reason only of his employment under the Board.

of 1934.]

(Chapter V.—District committees.—Sections 51-56.)

51. The [State Government] shall, by notification, declare that any member of the district committee shall cease to be a member of such committee—

Removal of members of district committees.

- (a) if he has become disqualified for appointment or election as a member of the committee for any of the reasons mentioned in section 12, or
- (b) if he was elected as being a member of a Union Board and if he is, at the date of such notification, no longer a member of such Union Board.

52. If an appointed or elected member of the district committee dies, resigns, or ceases to be a member in pursuance of a notification published under section 51, the vacancy shall be filled within one month by a fresh appointment or election, under section 47 or section 49, as the case may be.

Filling of casual vacancies.

53. Subject to the provisions of section 51, the term of office of the members referred to in clauses (e), (f) and (g) of section 47 shall be three years and any such member shall, if not disqualified for any of the reasons mentioned in section 12, be eligible for reappointment or re-election, as the case may be, at the end of his term.

Term of office of members of district committees.

54. The Chairman of the district Committee shall be elected by the committee.

The Chairman of the district committee.

55. The District Engineer shall be the Secretary of the district committee.

The Secretary of the district committee.

56. It shall be the duty of the district committee—

Duties of district committee.

- (a) to collect information concerning the internal channels of the district, and, with the assistance of the Waterways Executive Engineer, to make preliminary investigations into any proposal for the improvement of such channels for the purposes of navigation which in their opinion should be investigated;
  - (b) to submit to the Board any proposal for which, in the opinion of the district committee, a detailed project should be prepared;
  - (c) to report on any proposal which may be sent by the Board to them for their opinion;
  - (d) to report to the Board their opinion regarding any detailed project which may be sent to them by the Board:
-

(Chapter V.—District Committees.—Sections 57, 58.—  
Chapter VI.—Execution of works.—Sections 59-62.)

- (e) to elect a district member to represent the district committee at any meeting of the Board to which they may be required by the Board to send a district member; and
- (f) generally to assist the Board in carrying out the purposes of this Act.

Travelling allowance of members of district committee.

57. Every member of the district committee, other than an officer or servant of the Board, shall be entitled to receive such travelling allowance as may be prescribed by rules made under section 129.

Procedure for meetings of the district committee.

58. The conduct of business and proceedings of the district committee, including the number of meetings to be held, the manner of giving notice of meetings, the fixing of a quorum, the due record of proceedings and all other necessary matters, shall be regulated by rules made under section 129.

## CHAPTER VI

### Execution of works.

Classification of works.

59. For the purposes of this Act works shall be classified as—  
(a) maintenance works;  
(b) new works;

in accordance with rules made under section 129.

Power of Board to sanction and execute maintenance works.

60. The Board may, subject to the provisions of section 38, sanction and execute all maintenance works without reference to any other authority.

Major and minor works.

61. New works shall be divided into—  
(a) minor works, costing not more than ten thousand rupees, and  
(b) major works, costing more than ten thousand rupees.

District schemes and other schemes.

62. New works shall also be divided into—  
(a) district schemes, and  
(b) other schemes.

A district scheme is a scheme for a new work for the improvement or extension of the internal navigable channels within a district or districts.

The decision of the Board as to whether a scheme is a district scheme or not shall be final.

of 1934.]

(Chapter VI.—Execution of works.—Sections 63-68.)

63. If any proposal for a district scheme is received by the Board from any person or body other than a district committee, they shall send the proposal to the district committee.

Proposal for a district scheme to be sent to district committee.

64. The district committee, on receiving a proposal for a district scheme from the Board or from any other body or person, shall either reject the scheme or send it to the Waterways Executive Engineer for report.

Procedure of district committee on receipt of proposal.

65. After considering the Waterways Executive Engineer's report, and making such further investigation as they may deem fit, the district committee shall either reject the proposal or submit it to the Board with their recommendation regarding the preparation of a detailed project, together with the report of the Waterways Executive Engineer and any opinion which any other member of the district committee may record for the consideration of the Board.

Procedure of district committee on receipt of waterways Executive Engineer's report.

66. On receiving the recommendation of the district committee, the Board shall either reject the proposal or direct the Chief Engineer to prepare a detailed project:

Procedure of Board on receipt of district committee's recommendation.

Provided that no order which is substantially contrary to the recommendation of the district committee shall be passed by the Board until the matter in issue has been placed before a meeting of the Board to which a district member has been summoned from such district committee.

67. When a detailed project for a district scheme, or for any major work which is not a district scheme, has been prepared it shall be sent to the district committee of every district in which any portion of the work is proposed to be executed. Each such district committee shall record its opinion and submit it to the Board within such time not being less than one month as may be fixed by the Chairman.

Detailed project to be sent to district committee for opinion.

68. On receiving the opinion of the district committee on the detailed project or on the expiry of the period mentioned in section 67, the Board shall either reject the scheme or approve it:

Procedure of Board in dealing with a detailed project.

Provided that—

- (a) if the scheme is a district scheme which is a minor work, no order which is substantially contrary to the opinion received by a district committee shall be passed by the Board until the scheme has been considered at a meeting to which a district

member has been summoned from such district committee.

*(Chapter VI.—Execution of works.—Sections 69-71.)*

- (b) if the scheme is a district scheme which is a major work, a district member from the district committee of each district in which any portion of the work is to be executed shall, subject to the provisions of section 61, be summoned to attend the meeting or meetings at which it is to be considered;
- (c) if the scheme is a major work which is not a district scheme and a district committee in submitting their opinion under section 67 have recorded an objection to the scheme, the scheme, the Board shall not approve the scheme unless it has been considered at a meeting to which a district member from such district committee has been summoned; or, if the objection of the district committee is that the scheme ought not to be approved unless it is modified in a particular manner, the Board may approve the scheme as so modified, after informing the other district committees consulted under section 67, and after considering any objection to the modification which may be received from them within such time as may be fixed by the Chairman.

Power of Board to sanction schemes for minor works.

69. Subject, in the case of minor work which is a district scheme, to the provisions of sections 67 and 68, the Board may sanction any scheme for a minor work without reference to any other authority.

Publication of particulars of detailed projects for major works.

70. Such particulars as may be prescribed by rules made under section 129 of all detailed projects for major works, whether such works are district schemes approved under section 68 or other schemes, shall be published by notification for general information, and copies of the notification shall be sent forthwith to the <sup>1</sup>[State Government].

Procedure after publication of particulars of a detailed project.

71. After the expiry of a period of two months from the date of the publication of the notification under section 70 and after considering any objections which may have been received, the Board—

- (a) in the case of major work estimated to cost not more than one lakh of rupees in respect of which no objection has been received from the <sup>1</sup>[State Government], shall either sanction the execution of the scheme or pass such other orders as they may think fit;
- (b) in the case of a major work estimated to cost not more than one lakh of rupees in respect of which an objection has been received from the <sup>1</sup>[State Government], and in the case of a major work estimated to cost more than one lakh of rupees, shall reject or abandon the scheme or sanction the execution of the scheme after having received the approval of the <sup>1</sup>[State Government].

of 1934.]

(Chapter VI.—Execution of works.—Section 72.—  
Chapter VII.—Taxation.—Sections 73-76.)

Provided that nothing contained in this Act shall authorise the Board to sanction or execute any work contrary to a prohibition under the first proviso to clause (b) of section 41, or without previous sanction under clause (c) of that section or in contravention of the provisions of section 76 of the Bengal Embankment Act, 1882.

Ben. Act II  
of 1882.

72. A district member from the district committee of each district in which any portion of the work is proposed to be executed, shall, subject to the provisions of section 11, be summoned to any meeting of the Board at which a district scheme which is a major work is to be dealt with under section 71.

District members to be summoned to certain meetings of the Board.

CHAPTER VII

Taxation.

73. All navigable channels under the control of the Board shall be deemed to be navigable channels notified by the <sup>1</sup>[State Government] under section 2 of the Canals Act, 1864, and the provisions of the said Act shall apply to and be in force as regards all such channels.

Ben. Act V  
of 1864.

The Canals Act, 1864, to apply to navigable channels.

74. Notwithstanding anything contained in the Canals Act 1864, the Board shall, in respect of all lines of navigation under their control, discharge the functions of the person appointed to collect tolls under the Canals Act, 1864, and of the supervisor of a line of navigation under that Act.

The Board to discharge certain functions under the Canals Act, 1864.

75. The Board may require the owner of every steam-vessel used for the transport of passengers or of goods on lines of navigation under the control of the Board—

Tax on the owners of steam vessels.

- (a) to pay to the Board such percentages on the fare received in respect of such passengers, or such rate according to the number of such passengers, as may be prescribed by the Board with the sanction of the <sup>1</sup>[State Government],
- (b) to pay to the Board such percentages on the freight received in respect of such goods or of any class of such goods, or such rate according to weight, quantity or volume of such goods, or any class of such goods, as may be prescribed by the Board with the sanction of the <sup>1</sup>[State Government].

76. (1) The owner of every steam-vessel referred to in section 75 shall prepare and deliver, or cause to be prepared and delivered, to the Chairman a return for every quarter showing in the form prescribed by

Owners of steam-vessels to furnish quarterly returns.

## (Chapter VII.—Taxation.—Sections 77-79.)

rules made under section 129 all passengers and goods or other articles carried by such vessel, on account of whom or which the tax imposed by section 75 is payable, and shall subscribe, at the foot of such return, a declaration of the truth thereof.

(2) Every such return shall be delivered to the Chairman or posted to his address within two months after the end of the quarter to which it relates.

(3) If this Act comes into force during a quarter, the first of the said returns shall be made for the unexpired portion of that quarter.

Inquiry and certificate by Chairman as to amount of tax due.

77. (1) The Chairman may direct an inquiry to be made by an officer of the Board in order to ascertain the amount received by the owner of any steam-vessel referred to in section 75 on account of passengers and goods, or the number of passengers, or the weight, quantity or volume of goods or any class of goods, carried by the vessel during any quarter and on receiving the report of such officer may certify the amount due from the owner. A copy of the certificate shall be served on the owner by post, and the owner shall thereupon be liable, subject to the provisions of sub-sections (2) and (3), to pay the certified amount together with any amount payable as penalty on a conviction under section 148.

(2) An owner from whom any amount has been certified under sub-section (1) to be due may appeal to the <sup>1</sup>[State Government], within thirty days after the service of the copy of the certificate, to cancel or modify such certificate and the <sup>1</sup>[State Government] after calling for such information and causing such inquiry, if any, to be made as it thinks fit, shall determine the amount, if any, for which the owner shall be liable and shall cancel, modify or confirm the certificate accordingly.

(3) Where an owner has appealed to the <sup>1</sup>[State Government] under sub-section (2) he shall not be liable, pending the orders of the <sup>1</sup>[State Government] on the appeal, to pay to the Board any part of the amount in respect of which the certificate has been made, except such part as he admits to be due from him to the Board.

Manner and time of payment of tax.

78. Every amount due from the owner of a steam-vessel in respect of any tax imposed under section 75 shall be paid in such manner and within such period as may be prescribed by rules made under section 129.

Power of Board to levy licence fees.

79. (1) With the previous sanction of the <sup>1</sup>[State Government] the Board may, by notification, give notice of their intention to levy licence fees in respect of any class of vessel using any line of navigation under the control of the Board.

(2) Every notification issued under sub-section (1) shall be published at such places and for such period as the <sup>1</sup>[State Government] may fix, and shall specify—

- (a) the licence fee which it is proposed to impose;
- (b) the place of collection of such fee; and

<sup>1</sup>See foot-note 2 on page 277, ante.

of 1934.]

(Chapter VII.—Taxation.—Sections 80, 81.—Chapter VIII.—  
Finance.—Sections 82, 83.)

(c) the time within which any objections to the proposal may be submitted to the Board by persons interested.

(3) After the expiry of the time mentioned in clause (c) of sub-section (2) and after considering any objections which may have been received, the Board may impose the proposed licence fee with or without modification.

80. The Board shall appoint such persons as they may think fit to collect licence fees under this Act.

The Board to appoint persons to collect licence fees.

81. (1) If any licence fee due under the provisions of this Act in respect of any vessel is not paid on demand to the person authorised to collect the same, such person may seize such vessel, and any furniture thereof, and detain the same until the fee is paid.

Enforcement of payment of licence fees.

(2) Where any vessel is seized under sub-section (1), the provisions of section 9 of the Canals Act, 1864, shall be applicable, and the vessel and the furniture thereof shall be liable to be sold, as if the vessel had been seized for failure to pay a toll under that Act.

Ben. Act V of 1864.

CHAPTER VIII

Finance.

Loans.

82. The Board may from time to time borrow, at such rate of interest, and for such period, and upon such terms, as to the time and method of repayment and otherwise, as the <sup>1</sup>[State Government] may approve, any sum necessary for the purpose of—

Power of Board to borrow money.

(a) meeting expenditure debitable to the capital account under section 115, or

(b) repaying any loan previously taken under this Act.

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83. Whenever the borrowing of any sum has been approved under section 82, the Board may, instead of borrowing such sum or any part thereof from the public, but subject to any direction given by the <sup>1</sup>[State Government], take credit from any Bank, on a cash account to be kept in the name of the Board, to the extent of such sum or part;

Loans from Banks.

and, with the previous sanction of the <sup>1</sup>[State Government], may grant mortgages of all or any property vested in the Board by way of securing the payment of the amount of such credit or of the sums from time to time advanced on such cash account with interest.

<sup>1</sup>See foot-note 2 on page 277, ante.

<sup>2</sup>The proviso was omitted by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937.



## (Chapter VIII.—Finance.—Sections 84-88.)

Diversion of borrowed money to purposes other than those first approved.

84. When any sum of money has been borrowed under section 82 or section 83 for the purpose of meeting particular expenditure or repaying a particular loan no portion thereof shall be applied to any other purpose without the previous sanction of the '[State Government].

Form, signature, exchange, transfer and effect of debentures.

85. (1) Whenever money is borrowed by the Board on debentures, the debentures shall be in such form as the Board, with the previous sanction of the '[State Government], may from time to time determine.

(2) All debentures shall be signed by the Chairman and one other Trustee.

(3) The holder of any debenture in any form prescribed under subsection (1) may obtain in exchange therefor, upon such terms as the Board may from time to time determine, a debenture in any other form so prescribed.

(4) Every debenture issued by the Board shall be transferable by endorsement, unless some other mode of transfer be prescribed therein.

(5) The right to sue in respect of moneys secured by debentures issued by the Board shall vest in the respective holders of the debentures for the time being, without any preference by reason of some of such debentures being prior in date to others.

Signature of coupons attached to debentures.

86. All coupons attached to debentures issued under this Act shall bear the signature of the Chairman; and such signature may be engraved, lithographed or impressed by any mechanical process.

Payment to survivors of joint payees.

87. When any debenture or security issued under this Act is payable to two or more persons jointly, and either or any of them dies, then, notwithstanding anything contained in section 45 of the Indian Contract Act, 1872, the debenture or security shall be payable to the survivor or survivors of such persons:

Provided that nothing in this section shall affect any claim by the representative of a deceased person against such survivor or survivors.

Receipt by joint holder for interest or dividend.

88. Where two or more persons are joint holders of any debenture or security issued under this Act, any one of such persons may give an effectual receipt for any interest or dividend payable in respect of such debenture or security, unless notice to the contrary has been given to the Board by any other of such persons.

<sup>1</sup>See foot-note 2 on page 277. *ante*.

of 1934.]

(Chapter VIII.—Finance.—Sections 89-92.)

89. All payments due from the Board for interest on, or the repayment of, loans, shall be made in priority to all other payments due from the Board.

Priority of payments for interest and repayment of loans.

90. Every loan taken by the Board under section 82 shall be repaid within the period approved by the <sup>1</sup>[State Government] under that section, and, subject to the provisions of sub-section (2) of section 117, by such of the following methods as may be so approved, *namely*:—

Repayment of loans taken under section 82.

- (a) from a sinking fund established under section 91 in respect of the loan, or
- (b) by paying equal yearly or half-yearly instalments of principal, or of principal and interest, throughout the said period, or
- (c) if the Board have, before borrowing money on debentures, reserved, by public notice, a power to pay off the loan by periodical instalments and to select by lot the particular debentures to be discharged at particular periods—then by paying such instalments at such periods, or
- (d) from money borrowed for the purpose under clause (b) of section 82, or
- (e) partly from the sinking fund established under section 91 in respect of the loan and partly from money borrowed for the purpose under clause (b) of section 82.

91. (1) Whenever the <sup>1</sup>[State Government] have approved the repayment of a loan from a sinking fund, the Board shall establish such a fund and shall pay into it every year, until the loan is repaid, a sum so calculated that, if regularly paid throughout the period approved by the <sup>1</sup>[State Government] under section 82, it would, with accumulations in the way of compound interest, be sufficient, after payment of all expenses, to pay off the loan at the end of that period.

Establishment and maintenance of sinking funds.

(2) The rate of interest on the basis of which the sum referred to in sub-section (1) shall be calculated shall be such as may be prescribed by the <sup>1</sup>[State Government].

92. Notwithstanding anything contained in section 91, if at any time the sum standing at credit of the sinking fund established for the repayment of any loan, is of such amount that, if allowed to accumulate at the rate of interest prescribed under sub-section (2) of that section, it will be sufficient to repay the loan at the end of the period approved by the <sup>1</sup>[State Government] under section 82, then, with the permission of the <sup>1</sup>[State Government] further annual payments into such funds may be discontinued.

Power to discontinue payments into sinking fund.

<sup>1</sup>See foot-note 2 page 277, ante.

## (Chapter VIII.—Finance.—Sections 93-95.)

Investment  
of sinking  
fund. e.

93. (1) All money paid into any sinking fund shall as soon as possible be invested, under the orders of the Board, in—

- (a) Government securities, or
- (b) securities guaranteed <sup>1</sup>[by the Central or the State Government], or
- (c) Calcutta Municipal debentures, or
- (d) debentures issued by the Port Commissioners, or
- (e) debentures issued by the Board,

in the joint names of the Secretary to the Government of <sup>2</sup>[West Bengal] in the Finance Department and the Accountant-General, <sup>2</sup>[West Bengal], to be held by them as trustees for the purpose of repaying from time to time the debentures issued by the Board.

(2) All dividends and other sums received in respect of any such investment shall, as soon as possible after receipt, be paid into the appropriate sinking fund and invested in the manner prescribed by sub-section (1).

(3) Any investment made under this section may, from time to time, subject to the provisions of sub-section (1), be varied or transposed.

Application  
of sinking  
fund.

94. The aforesaid trustees may from time to time apply any sinking fund or any part thereof, in or towards the discharge of the loan or any part of the loan for which such fund was established and until such loan is wholly discharged shall not apply the same for any other purpose.

Annual  
statement by  
trustees.

95. (1) The aforesaid trustees shall, at the end of every financial year, transmit to the Chairman a statement showing—

- (a) the amount which has been invested during the year under section 93,
- (b) the date of the last investment made previous to the transmission of the statement,
- (c) the aggregate amount of the securities held by them,
- (d) the aggregate amount which has, up to the date of the statement, been applied under section 94 in or towards repaying loans, and
- (e) the aggregate amount already paid into each sinking fund.

<sup>1</sup>The words "by the Central or the Provincial Government" were originally substituted for the words "by the Government" by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

<sup>2</sup>See foot-note 3 on page 277, *ante*.

of 1934.]

(Chapter VIII.—Finance.—Sections 96-98.)

(2) Every such statement shall be laid before the Board and published by notification.

96. (1) The said sinking funds shall be subject to annual examination by the Accountant-General, <sup>1</sup>[West Bengal], who shall ascertain whether the cash and the current value of the securities at credit of such funds are actually equal to the amount which would have accumulated had investments been regularly made and had the rate of interest as originally estimated been obtained therefrom.

Annual examination of sinking funds.

(2) The Board shall forthwith pay into any sinking fund any amount which the Accountant-General may certify to be deficient, unless the <sup>2</sup>[State Government] specially sanctions a gradual readjustment.

*Enforcement of liabilities.*

97. (1) If the Board fail—

- (a) to pay any interest due in respect of any loan taken in pursuance of section 82, or
- (b) to make any payment prescribed by section 90, section 91 or sub-section (2) of section 96, or
- (c) to make any investment prescribed by section 93.

Procedure if Board fail to make any payment or investment in respect of loans.

the <sup>2</sup>[State Government] may take possession of any money or other assets, movable or immovable, belonging to the Board and of all rents and other income of the Board, and out of the aforesaid funds, assets or income may direct the Accountant-General, <sup>1</sup>[West Bengal], to make such payment or set aside and invest such sums as ought to have been invested under the said section 93.

*Contributions.*

98. There shall be payable by the <sup>2</sup>[State Government] to the Board during the first five years after the commencement of this Act an annual contribution of not less than two lakhs and fifty thousand rupees payable in equal instalments on the first day of each quarter and after the expiry of the above period such annual contribution as may be determined from time to time by the <sup>2</sup>[State Government];

Government contribution.

Provided that on the representation of the Board or otherwise the <sup>2</sup>[State Government] may raise its contribution to any sum larger than the amount provided in this section.

<sup>1</sup>See foot-note 3 on page 277, ante.

<sup>2</sup>See foot-note 2 on page 277, ante.

## (Chapter VIII.—Finance.—Sections 99-103.)

Contribution by the Port Commissioners for any work beneficial to the Port of Calcutta.

99. Notwithstanding anything contained in the Calcutta Port Act, 1890, or in any other Act, the Port Commissioners may, with the previous sanction of the <sup>1</sup>[Central Government], pay from the funds of the Port Commissioners to the Board a contribution towards the cost of any work executed or to be executed by the Board which in the opinion of the <sup>1</sup>[Central Government] will be directly or indirectly beneficial to the Port of Calcutta.

Ben. Act III of 1890.

Manner of payment of contribution for the first quarter.

100. If this Act is directed to come into force during a quarter, the first instalment of the contribution payable under section 98 shall bear such proportion to the sum payable thereunder as the unexpired portion of that quarter bears to the whole quarter.

*Budget estimates.*

Estimates of income and expenditure to be laid annually before the Board.

101. (1) The Chairman shall, at a special meeting to be held in the month of January in each year, lay before the Board an estimate of the income and expenditure of the Board for the next ensuing financial year.

(2) Every such estimate shall make provision for the due fulfilment of all the liabilities of the Board and for the efficient administration of this Act.

(3) Every such estimate shall differentiate capital and revenue funds, and shall be prepared in such form, and shall contain such details, as the <sup>2</sup>[State Government] or the Board may from time to time direct.

(4) Every such estimate shall be completed and printed, and a copy thereof sent, by post or otherwise, to each Trustee at least ten clear days before the date of the meeting at which the estimate is to be laid before the Board.

Sanction of Board to estimates.

102. The Board shall consider every estimate so laid before them, and shall sanction the same, either without alteration or with such alterations as they may think fit.

Approval of State Government to estimates.

103. (1) Every such estimate, as sanctioned by the Board, shall be submitted to the <sup>2</sup>[State Government], who may, at any time within two months after receipt of the same,—

(a) approve the estimate, or

(b) disallow the estimate or any portion thereof, and return the estimate to the Board for amendment.

<sup>1</sup>These words were substituted for the words "Local Government" by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>2</sup>See foot-note 2 on page 277, ante.

of 1934.]

(Chapter VIII.—Finance.—Sections 104-106.)

(2) If any estimate is so returned to the Board, they shall forthwith proceed to amend it, and shall re-submit the estimate, as amended, to the <sup>1</sup>[State Government], who may then approve it.

104. (1) A special meeting of the Board shall be held as soon as may be expedient after the day appointed under sub-section (1) of section 23 and the Chairman shall at such special meeting lay before the Board an estimate of the income and expenditure of the Board for the portion of the financial year which on the said day had not expired.

Special provisions as to the first estimate after the constitution of the Board

(2) The provisions of sub-sections (2) to (4) of section 101 and sections 102 and 103 shall apply to the said estimate.

105. (1) The Board may, at any time during the year for which any estimate has been sanctioned, cause a supplementary estimate to be prepared and laid before them at a special meeting.

Supplementary estimates

(2) The provisions of sub-sections (3) and (4) of section 101 and sections 102 and 103 shall apply to every supplementary estimate.

106. (1) No sum shall be expended by or on behalf of the Board unless the expenditure of the same is covered by a current budget-grant or can be met by re-appropriation or by drawing on the closing balance.

Adherence to estimate and maintenance of closing balance.

(2) The closing balance shall not be reduced below one lakh of rupees without the previous sanction of the <sup>1</sup>[State Government].

(3) The following items shall be excepted from the provisions of sub-sections (1) and (2), namely:—

- (a) re-payments of moneys belonging to contractors or other persons and held in deposit, and of moneys collected by, or credited to, the Board by mistake;
- (b) payments due under a decree or order of a Court passed against the Board or against the Chairman *ex-officio*, or under an award by a Court under the Land Acquisition Act, 1894;
- (c) sums payable under a compromise of any suit or other legal proceeding or claim effected under section 137;
- (d) sums payable under this Act by way of compensation; and
- (e) payments required to meet some pressing emergency.

<sup>1</sup>See foot-note 2 on page 277, *ante*.

of 1894.

*(Chapter VIII.—Finance.—Sections 107-109.)*

(4) Whenever any sum exceeding five thousand rupees is expended under clause (e) of sub-section (3), the Chairman shall forthwith report the circumstances to the <sup>1</sup>[State Government], and shall at the same time explain how the Board propose to cover the expenditure.

*Banking and Investments.*

Receipt of moneys, and deposit in the Imperial Bank of India or a Government treasury.

107. (1) All moneys payable to the Board shall be received by the Chairman, and shall forthwith be paid into the Imperial Bank of India or a branch thereof or into a Government treasury to the credit of an account to be called "The <sup>2</sup>[West Bengal] Waterways Board Fund."

(2) The Chairman may, on behalf of, and with the sanction of, the Board transfer any money at the credit of the said account between the Imperial Bank of India, such of its branches and such Government treasuries as the Board may from time to time determine.

Investment of surplus money.

108. (1) Surplus moneys at the credit of the said account may from time to time be—

- (a) deposited at interest in the Imperial Bank of India or in any other Bank in Calcutta approved by the <sup>1</sup>[State Government] in this behalf, or
- (b) invested in any of the securities or debentures mentioned in sub-section (1) of section 93 of this Act or in section 20 of the Indian Trusts Act, 1882.

II of 1882.

(2) All such deposits and investments shall be made by the Chairman on behalf of, and with the sanction of, the Board; and, with the like sanction, the Chairman may at any time withdraw any deposit so made, or dispose of any securities, and re-deposit or re-invest the money so withdrawn or the proceeds of the disposal of such securities.

Payments by cheque.

109. (1) No payment shall be made by the Imperial Bank of India, or any of its branches or a Government treasury out of the account referred to in section 107, except upon a cheque.

(2) Payment of any sum due by the Board exceeding one hundred rupees in amount shall be made by means of a cheque, and not in any other way.

<sup>1</sup>See foot-note 2 on page 277, *ante*.

<sup>2</sup>See foot-note 3 on page 277, *ante*.

of 1934.]

(Chapter VIII.—Finance.—Sections 110-112.)

110. (1) All orders for making any transfer under sub-section (2) of section 107 or for making any deposit, investment, withdrawal or disposal under section 108 shall be signed—

Signature of orders under sections 107 and 108, and cheques.

- (a) by the Chairman and the Secretary to the Board, or
- (b) in the event of the illness or occasional absence from Calcutta of the Chairman or the Secretary, then by the Secretary or the Chairman, as the case may be, and by a Trustee other than the Chairman.

(2) All cheques referred to in section 109 shall be signed—

- (a) by the Chairman and the Secretary to the Board, or
- (b) in the event of the illness or occasional absence from Calcutta of the Chairman or the Secretary, then by the Secretary or the Chairman, as the case may be, and by a Trustee other than the Chairman, or
- (c) in the case of payments which a Waterways Executive Engineer or other officer of the Board may make under rules made under section 129, then by such Engineer or officer, as the case may be.

111. Before the Chairman or any other Trustee or the Secretary or a Waterways Executive Engineer or any other officer of the Board signs a cheque under section 110, he shall satisfy himself that the sum for which such cheque is drawn is required for a purpose or work specifically sanctioned by the Board or is an item of one of the excepted descriptions specified in sub-section (3) of section 106.

Duty of Chairman and others before signing cheques.

*Accounts.*

112. (1) The expression "cost of management", as used in the following sections in this chapter, means—

Definition of "cost of management".

- (a) the pay and house-rent allowance (if any) of the Chairman or acting Chairman, and the contributions referred to in sub-section (2) of section 14;
- (b) all fees and travelling allowance paid under section 35, for attendance at meetings;
- (c) all travelling allowance paid to members of district committees under section 57;
- (d) all grants made to the district committees for carrying out the purposes of this Act:



*(Chapter VIII.—Finance.—Sections 113, 114.)*

- (e) the pay, fees and allowances of, and the contributions paid under section 136 in respect of, officers and servants of the Board who are employed in accordance with the provisions of section 24;
- (f) the remuneration of other employees of the Board except employees who are paid by the day or whose pay is directly charged to work;
- (g) the cost, if not chargeable to any specific work, of working launches and other boats maintained by the Board; and
- (h) all office expenses incurred by the Board and by the district committee.

(2) The expression "office expenses", in clause (h), means expenses incurred for carrying on office work, and includes the rent of offices, the provision of furniture therefor, and charges for printing and stationery.

Keeping of capital account and revenue account.

113. (1) The Board shall keep a capital account and a revenue account.

(2) The capital account shall show separately all expenditure incurred by the Board on every work which the Board, with the sanction of the <sup>1</sup>[State Government], may decide to finance from capital account.

Credits to capital account.

114. There shall be credited to the capital account—

- (a) all moneys received on account of loans taken by the Board in pursuance of section 82 or section 83;
- (b) the proceeds of the sale of any land vested in the Board, or if the cost of the land was paid from revenue account or out of an advance from revenue account, only the portion of the sale proceeds which remains after crediting to the revenue account the sum paid or advanced from it;
- (c) the proceeds of the sale of any movable property (including tools and plants and securities for money invested from the capital account) belonging to the Board;
- (d) all lump sums received from the Government or any other source in aid of the capital account;
- (e) all premia received by the Board in connection with leases for any term exceeding thirty years;
- (f) all moneys resulting from the sale of securities by direction of the <sup>1</sup>[State Government] under section 118; and
- (g) all sums (if any) which the <sup>1</sup>[State Government] directs, under sub-section (2) of section 117, to be credited to the capital account.

of 1934.]

(Chapter VIII.—Finance.—Sections 115-117.)

115. The moneys credited to the capital account shall be held by the Board in trust, and shall be applied to—

Application of capital account.

- (a) meeting all costs of framing and executing such works as the Board may, with the sanction of the<sup>1</sup>[State Government], decide to finance from capital account;
- (b) the repayment of loans from money borrowed in pursuance of clause (b) of section 82;
- (c) making, or contributing towards the cost of making, surveys, in pursuance of section 145;
- (d) meeting such proportion of the cost of management as the Board may, with the sanction of the<sup>1</sup>[State Government], prescribe in this behalf; and
- (e) temporarily making good the deficit (if any) in the revenue account at the end of any financial year.

116. There shall be credited to the revenue account—

Credits to revenue account.

- (a) all proceeds received by the Board of taxes, tolls and fees imposed under Chapter VII;
- (b) all<sup>2</sup>\* \* \* damages and proceeds of confiscations received by the Board under section 153;
- (c) all annually recurring sums received from the Government or any other source in aid of the funds of the Board;
- (d) all premia received by the Board in connection with leases for any term not exceeding thirty years;
- (e) all rents of land vested in the Board; and
- (f) all other receipts by the Board which are not required by section 114 to be credited to the capital account.

117. (1) The moneys credited to the revenue account shall be held by the Board in trust, and shall be applied to—

Application of revenue account.

- (a) meeting all charges for interest and sinking fund due on account of any loan taken in pursuance of clause (a) of section 82, or section 83, and all other charges incurred in connection with such loans;
- (b) paying all sums due from the Board in respect of rates and taxes imposed by a local authority upon land vested in the Board;

<sup>1</sup>See foot-note 2 on page 277, ante.

<sup>2</sup>The word "fines" was omitted by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937.

## (Chapter VIII.—Finance.—Sections 118-120.)

- v.
- (c) paying the cost (if any) of maintaining an establishment for the collection of tolls and revenue due to the Board;
  - (d) paying all sums which the <sup>1</sup>[State Government] may direct to be paid to any auditor under section 124;
  - (e) paying the cost of management, excluding such proportion thereof as may be debited to the capital account under clause (d) of section 115;
  - (f) paying the cost of works which the Board, at a meeting, may decide to meet from revenue account; and
  - (g) paying all other sums due from the Board, other than those which are required by section 115 to be disbursed from the capital account.

(2) The surplus (if any) remaining after making the payments referred to in sub-section (1) shall,

subject to the maintenance of a closing balance of one *lakh* of rupees, and

except as provided in section 119, and

unless the <sup>1</sup>[State Government] otherwise directs;

be invested, in the manner prescribed in section 93, towards the service of any loans outstanding after the expiry of sixty years from the commencement of this Act.

Powers to direct sale of securities in which any surplus of the revenue account is invested.

118. If, at any time after any surplus referred to in sub-section (2) of section 117 has been invested, the <sup>1</sup>[State Government] is satisfied that the investment is not needed for the service of any loan referred to in that sub-section, it may direct the sale of the securities held under the investment.

Advances from revenue account to capital account.

119. (1) Notwithstanding anything contained in section 117, the Board may advance any sum standing at the credit of the revenue account for the purpose of meeting capital expenditure.

(2) Every such advance shall be refunded to the revenue account as soon as may be practicable.

Advances from capital account to revenue account.

120. (1) Any deficit in the revenue account at the end of any financial year may be made good by an advance from the capital account.

(2) Every such advance shall be refunded to the capital account in the following financial year.

<sup>1</sup>See foot-note 2 on page 277. *ante*.

of 1934.]

(Chapter VIII.—Finance.—Sections 121-127.)

121. The Board shall submit to the <sup>1</sup>[State Government] at the end of every financial year, an abstract of the accounts of their receipts and expenditure.

Submission of abstracts of accounts to State Government.

122. The accounts of the Board shall, once in every financial year, be examined and audited by such auditor as the <sup>1</sup>[State Government] may appoint in this behalf.

Annual audit of accounts.

123. The auditor so appointed may,—

Powers of auditor.

- (a) by written summons, require the production before him of any document which he may consider necessary for the proper conduct of the audit;
- (b) by written summons require any person having the custody or control of, or being accountable for, any such document to appear in person before him; and
- (c) require any person so appearing before him to make and sign a declaration with respect to any such document, to answer any question, or to prepare and submit any statement.

124. The Board shall pay to the said auditor such remuneration as the <sup>1</sup>[State Government] may direct.

Remuneration of auditor.

125. The said auditor shall—

Reports and information to be furnished by auditor to the Board.

- (a) report to the Board any material impropriety or irregularity which he may observe in the expenditure, or in the recovery of moneys due to the Board, or in the accounts, and report the same to the <sup>1</sup>[State Government],
- (b) furnish to the Board such information as they may from time to time require concerning the progress of his audit, and
- (c) within fourteen days after the completion of his audit, forward his report upon the accounts to the Chairman.

126. It shall be the duty of the Board forthwith to remedy any defects or irregularities that may be pointed out by the auditor.

Board to remedy defects pointed out by auditor.

127. The Chairman shall cause the report mentioned in clause (c) of section 125. to be printed and shall forward a printed copy thereof to each Trustee, and shall bring such report before the Board for consideration at their next meeting.

Auditor's report to be sent to each Trustee and considered by Board.

<sup>1</sup>See foot-note 2 on page 277. ante.

*(Chapter VIII.—Finance.—Section 128.—Chapter IX.—  
Rules.—Section 129.)*

Publication and submission of an abstract of the accounts.

**128.** Within two months after the receipt of the said report, or within such longer period as the <sup>1</sup>[State Government] may appoint, the Board shall prepare an abstract of the accounts to which it relates, and shall publish such abstract by notification, and shall send a copy of the abstract to the <sup>1</sup>[State Government].

## CHAPTER IX

## Rules.

Further powers to make rules.

**129.** (1) With the previous sanction of the <sup>1</sup>[State Government] the Board may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the Board may make rules—

- (a) regulating elections under sub-sections (1), (2) and (4) of section 8,
- (b) prescribing the date referred to in section 10,
- (c) regulating the summoning of district members to attend meetings of the Board under section 31,
- (d) regulating the delegation of powers and duties of the Board to committees appointed under section 33,
- (e) prescribing the cases in which and the rates at which travelling allowance shall be payable under section 35 and the maximum amount of fees and travelling allowance payable under sub-section (3) of that section,
- (f) prescribing the officers by whom estimates may be sanctioned and contracts made under section 38,
- (g) regulating navigation and traffic under clause (e) of section 41,
- (h) prescribing the manner in which members are to be elected under clauses (f) and (g) of section 47,
- (i) prescribing the period within which, under section 49, members are to be elected,
- (j) prescribing the travelling allowance payable under section 57,
- (k) regulating the conduct of business and proceedings of the district committee under section 58,
- (l) regulating the classification of works as maintenance works and new works under section 59.

of 1934.]

(Chapter IX.—Rules.—Section 130.)

- (m) prescribing the particulars to be published under section 70 of detailed projects for major works,
- (n) prescribing the manner of payment of amounts due in respect of taxes imposed under section 75, and the periods within which such amounts shall be paid,
- (o) prescribing the form of return to be made under section 76,
- (p) prescribing the payments which may be made by a Waterways Executive Engineer or such other officer under section 110.
- (q) prescribing the proportion of the cost of management to be met from capital account under clause (d) of section 115.

(3) In making any rule under sub-section (1) or sub-section (2), the Board may provide that a breach of it shall be punishable—

- (i) with fine which may extend to five hundred rupees, or
- (ii) in case of a continuing breach, with fine which may extend to fifty rupees for every day during which the breach continues after receipt of written notice from the Chairman to discontinue the breach.

(4) If, in the opinion of the <sup>1</sup>[State Government], it is necessary or expedient for the purposes of this Act that any rule should be made under this section and the Board fail to make, or to propose in a form approved by the <sup>1</sup>[State Government], such rule within such time as the <sup>1</sup>[State Government] may fix, the <sup>1</sup>[State Government] may, subject to the conditions of section 130, itself make such rule. A rule so made shall be deemed to be a rule duly made by the Board under this section.

130. The power to make rules shall be exercised subject to the following conditions:—

- (1) after approval by the <sup>1</sup>[State Government] draft rules shall be published in the <sup>2</sup>[Official Gazette] for a period of six weeks;
- (2) any objections received to the draft rules shall be considered by the <sup>1</sup>[State Government] and the rules, after such modification as may be necessary, shall be finally sanctioned;
- (3) all rules which have been finally sanctioned shall be published in the <sup>2</sup>[Official Gazette] and in such newspapers as the <sup>1</sup>[State Government] may direct, and shall come into effect on the fifteenth day after such publication in the <sup>2</sup>[Official Gazette].

Conditions precedent to the making of rules.

<sup>1</sup>See foot-note 2 on page 277, ante.

<sup>2</sup>See foot-note 1 on page 278, ante.

(Chapter IX.—Rules.—Sections 131-134.—Chapter X.—  
Supplemental Provisions.—Sections 135, 136.)

Printing and  
sale of copies  
of rules.

131. (1) The Chairman shall cause all rules made by the '[State Government] under the Canals Act, 1864, for the management of lines of navigation under the control of the Board, and all rules made by the Board under clause (g) of sub-section (2) of section 129, to be printed in English and Bengali, and shall cause printed copies thereof to be delivered to any applicant on payment of a price to be fixed by the Chairman.

Ben. Act V  
of 1864.

(2) Notice of the fact that copies of rules are obtainable at the said price, and of the place where and the person from whom the same are obtainable, shall be given by the Chairman by advertisement in local newspapers.

Free supply  
of copies of  
rules.

132. Copies of the rules described in sub-section (1) of section 131 shall be delivered free to every person paying a licence fee under section 79.

Exhibition of  
copies of  
rules.

133. Copies of the rules described in sub-section (1) of section 131 shall be hung up in a conspicuous place in every toll office of the Board.

Power of  
State  
Government  
to cancel  
rules made  
under section  
129.

134. The '[State Government] may, at any time, by notification cancel any rule made by the Board under section 129.

#### CHAPTER X

#### Supplemental Provisions.

##### *Status of Trustees, etc.*

Trustees,  
etc., deemed  
public  
servants.

135. Every Trustee, and every officer and servant of the Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Act XLV of  
1860.

##### *Contributions towards leave allowances and pensions of Government servants.*

Contributions  
by Board  
to words  
leave  
allowances  
and pensions  
of servants  
of the  
Government  
employed  
under this  
Act.

136. The Board shall pay such contributions for the leave allowances and pension of any '[servant of the Government] employed as Chairman or as an officer or servant of the Board, as may be '[required, by the conditions of his service under the Government to be made by him or on his behalf].

<sup>1</sup>See foot-note 2 on page 277, *ante*.

<sup>2</sup>See foot-note 2 on page 285, *ante*.

<sup>3</sup>The words "required, by the conditions of his service under the Crown to be made by him or on his behalf" were originally substituted for the words "prescribed in any general or special orders of the Government for regulating the transfer of Government servants to foreign service" by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "Government" was substituted for the word "Crown" by para. 4(1) of the Adaptation of Laws Order, 1950.

of 1934.]

(Chapter X.—Supplemental provisions.—Section 137-140.)

*Legal proceedings.*

137. The Chairman may, subject to the control of the Board,—
- (a) institute, defend or withdraw from, legal proceedings under this Act or any rule made thereunder;
  - (b) compound any offence against this Act or any rule made thereunder which, under any law for the time being in force, may lawfully be compounded;
  - (c) admit, compromise or withdraw any claim made under this Act or any rule made thereunder; and
  - (d) obtain or authorise the obtaining of such legal advice and assistance as he may from time to time think it necessary or expedient to obtain, or as he may be desired by the Board to obtain, for any of the purposes referred to in this section, or for securing the lawful exercise or discharge of any power or duty vested in or imposed upon the Board or any officer or servant of the Board.

Powers of Chairman as to institution, etc., of legal proceedings and obtaining legal advice.

138. No suit shall be maintainable against the Board, or any Trustee, or any officer or servant of the Board, or any person acting under the direction of the Board or of the Chairman or of any officer or servant of the Board, in respect of anything lawfully and in good faith and with due care and attention done under this Act or any rule made thereunder.

Indemnity to Board, etc.

139. No suit shall be instituted against the Board, or any Trustee, or any officer or servant of the Board or any person acting under the direction of the Board or of the Chairman or of any officer or servant of the Board, in respect of any act purporting to be done under this Act or any rule made thereunder, until the expiration of one month next after written notice has been delivered or left at the Board's office or the place of abode of such officer, servant or person, stating the cause of action, the name and place of abode of the intending plaintiff, and the relief which he claims; and the plaint must contain a statement that such notice has been so delivered or left.

Notice of suit against Board, etc.

*Police.*

140. On the written application of the Chairman or other officer to whom power has been delegated by the Chairman by general or special order, any police-officer above the rank of constable shall arrest any person who obstructs any officer or servant of the Board in the exercise of any of the powers conferred by this Act or any rule made thereunder.

Arrest of offenders.



*(Chapter X.—Supplemental Provisions.—Sections 141-143.)**Evidence.*

Proof of  
consent, etc.,  
of Board or  
Chairman or  
officer or  
servant of  
Board.

141. Whenever, under this Act or any rule made thereunder, the doing or the omitting to do anything or the validity of anything or the validity of anything depends upon the approval, sanction, consent, concurrence, declaration, opinion or satisfaction of—

- (a) the Board or the Chairman, or
- (b) any officer or servant of the Board.

a written document, signed, in case (a) by the Chairman, and in case (b) by the said officer or servant, purporting to convey or set forth such approval, sanction, consent, concurrence, declaration, opinion or satisfaction, shall be sufficient evidence of such approval, sanction, consent, concurrence, declaration, opinion or satisfaction.

*Validation.*

Validation of  
acts and  
proceedings.

142. (1) No act done or proceeding taken under this Act shall be questioned on the ground merely of—

- (a) the existence of any vacancy in, or any defect in the constitution of, the Board or any committee, or
- (b) any person having ceased to be a Trustee, or
- (c) any Trustee or a district member having voted or taken any other part in any proceeding in contravention of section 36, or
- (d) any omission, defect or irregularity not affecting the merits of the case.

(2) Every meeting of the Board, the minutes of the proceedings of which have been duly signed, as prescribed in sub-section (6) of section 32, shall be taken to have been duly convened and to be free from all defect and irregularity.

*Compensation.*

General  
power of  
Board to pay  
compensation.

143. In any case not otherwise expressly provided for in this Act, the Board may pay reasonable compensation to any person who sustains damage by reason of the exercise of any of the powers vested, by this Act or any rule made thereunder, in the Board or the Chairman or any officer or servant of the Board.

of 1934.]

(Chapter X.—Supplemental provisions.—Sections 144-146.)

*Public notices and advertisements.*

144. Every public notice given under this Act or any rule made thereunder shall be in writing over the signature of the Chairman, and shall be widely made known in the locality to be affected thereby, by affixing copies thereof in conspicuous public places within the said locality, or by publishing the same by beat of drum or by advertisement in local newspapers, or by any two or more of these means, and by any other means that the Chairman may think fit.

Public notices how to be made known.

*Surveys.*

145. The Board may—

- (a) cause a survey of any land to be made, whenever they consider that a survey is necessary or expedient for carrying out any of the purposes of this Act, or
- (b) contribute towards the cost of any such survey made by any other local authority.

Power to make surveys, or contribute towards their cost.

*Power of entry.*

146. (1) The Chairman, any other Trustee, or an officer of the Board or other person acting under the general or special order of any Trustee or officer of the Board may, with or without assistants or workmen, enter into or upon any land, in order—

Power of entry.

- (a) to make any inspection, survey, measurement, valuation or inquiry,
- (b) to take levels,
- (c) to dig or bore into the subsoil,
- (d) to set out boundaries and intended lines of work,
- (e) to mark such levels, boundaries and lines by placing marks, and cutting trenches, or
- (f) to do any other thing,

whenever it is necessary to do so for any of the purposes of this Act or of any rule made thereunder or of any work or of any inquiry under this Act:

*(Chapter X.—Supplemental Provisions.—Sections 147, 148.)*

Provided as follows:—

- (a) no such entry shall be made between sunset and sunrise;
- (b) no dwelling-house, and no public building or hut which is used as a dwelling place, shall be so entered, unless with the consent of the occupier thereof, without giving the said occupier at least twenty-four hours' previous written notice of the intention to make such entry.

(2) Whenever the Chairman or other person enters into or upon any land in pursuance of sub-section (1) he shall, at the time of such entry, award compensation for any damage which may be occasioned by any proceeding under this section. Any person dissatisfied with the amount of compensation awarded under this sub-section may appeal to the Board.

(3) Notwithstanding anything contained in this Act, any party dissatisfied with the decision of the Board, may refer the matter to the civil court having jurisdiction in the matter.

*Penalties.*

Punishment for acquiring share or interest in contract, etc., with the Board.

**147.** If any Trustee, or any officer or servant of the Board, knowingly acquires, directly or indirectly, by himself or by any partner, employer or employee, otherwise than as such Trustee, officer or servant, any share or interest in any contract or employment with, by, or on behalf of, the Board,

not being a share or interest such as, under sub-section (2) of section 12 it is permissible for a Trustee to have without being thereby disqualified for being appointed a Trustee,

he shall be deemed to have committed an offence under section 168 of the Indian Penal Code.

Act XLV of 1860.

Penalty for failure to make return, pay tax, etc.

**148.** (1) If the owner of any steam-vessel omits to make any return required by section 76 or refuses to sign or complete the same, he shall be punished with fine which may extend to one thousand rupees.

(2) If, after being convicted under sub-section (1), the owner persists in omitting to make, sign or complete a return, he shall be punished with a further fine which may extend to five hundred rupees, for every day

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(Chapter X.—Supplemental provisions.—Sections 149-152.)

(3) If the owner of any steam-vessel fails to pay to the Board within the period prescribed by rules made under section 129 any amount due to the Board in respect of any tax imposed under section 75, he shall be punished with fine which may extend to five hundred rupees for every day during which the amount remains unpaid after the expiry of the said period.

(4) If a return made and delivered under section 76 is false or incorrect in any material particular, the person signing the statement shall be punished with fine which may extend to five hundred rupees.

(5) A prosecution or conviction under this section shall not affect the liability of the offender to a prosecution under section 199 of the Indian Penal Code.

149. Any person who refuses or evades or attempts to evade payment of any toll or licence fee due under this Act shall be punished with fine which may extend to fifty rupees or with imprisonment in lieu of fine which may extend to one month.

Penalty for evasion of payment of toll or licence fee.

150. Any person who wilfully causes, or aids in causing any obstruction to any line of navigation, or any damage to the banks or works of such line of navigation, or who wilfully omits to remove such obstruction after being lawfully required so to do, shall be punished with simple imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both, and shall also be liable to pay such amount as may be sufficient to meet all reasonable expenses incurred in abating or removing such obstruction, or in repairing such damage, and such amount shall be recovered as a fine.

Penalty for obstruction to line of navigation.

151. If any person fails to comply with any requisition made under section 123, he shall be punished—

Penalty for failure to comply with requisition made by auditor.

- (a) with fine which may extend to one hundred rupees; or
- (b) in case of a continuing failure, with fine which may extend to fifty rupees for each day after the first during which the failure continues.

152. If any person—

- (a) obstructs or molests any person with whom the Chairman has entered into a contract on behalf of the Board, in the performance or execution by such person of his duty or of anything which he is empowered or required to do by virtue or in consequence of this Act or any rule made thereunder; or

Penalty for obstructing contractor or removing mark.

*(Chapter X.—Supplemental Provisions.—Sections 153, 154.)*

- (b) removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorised by this Act or any rule made thereunder,

he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to two months.

*Disposal of fines and damages.*

Damages and proceeds of confiscations to be paid to Board.

153. All <sup>1</sup>\* \* damages realized, and the proceeds of all confiscations, in cases in which prosecutions are instituted under this Act or any rule made thereunder, shall be paid to the Board.

*Control.*

Power of State Government to control the Board.

154. (1)(i) If the Board sanction, execute or attempt to execute any work which in the opinion of the <sup>2</sup>[State Government], the Board are not authorized to sanction or execute under this Act, or

(ii) if, in the opinion of the <sup>2</sup>[State Government], the Board exceed or abuse their powers, or persistently make default in the performance of any of the duties imposed on them by this Act,

the <sup>2</sup>[State Government] may, by an order in writing, take all or any of the following actions, namely:—

- (a) cancel any resolution or order of the Board which is contrary to the provisions of this Act;
- (b) withhold for such period as it thinks fit the contribution payable to the Board under section 98;
- (c) supersede the Board for such period as may be specified in the order.

(2) When an order of supersession has been passed under clause (c) of sub-section (1) the following consequences shall ensue—

- (a) all the Trustees shall, as from the date of the order, vacate their offices as such Trustees,

<sup>1</sup>The words "fines and" were omitted by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>2</sup>See foot-note 2 on page 277, *ante*.

of 1934.]

(Chapter X.—Supplemental provisions.—Section 154.)

- (b) all the powers and duties which may, under the provisions of this Act, be exercised and performed by the Chairman and by the Board shall, during the period of supersession, be exercised and performed by such person as the <sup>1</sup>[State Government] may direct,
- (c) all property vested in the Board shall, during the period of supersession, vest in <sup>2</sup>[the State Government].

(3) At any time before the expiration of the period of supersession specified in the order, or on the expiration of such period, the <sup>1</sup>[State Government] may reconstitute the Board by a fresh election and fresh appointment, and any of the Trustees who vacated their offices under clause (a) of sub-section (2) may be declared by an order of the <sup>1</sup>[State Government] to be disqualified for election or appointment.

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<sup>1</sup>See foot-note 2 on page 277, *ante*.

<sup>2</sup>The words "the Crown for the purposes of the Province" were first substituted for the words "the Government" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the words within square brackets were substituted for the words "the Crown for the purposes of the Province" by para. 3(1) of, and the Eleventh Schedule to, the Adaptation of Laws Order, 1950.