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## Orissa Public Embankment Construction and Improvement Act, 1950

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# **THE ORISSA PUBLIC EMBANKMENT CONSTRUCTION & IMPROVEMENT ACT, 1950**

[Vide Orissa Act/10.3.1951.

For Statement of Objects and Reasons, see Orissa Gazette, Ext. No. 62/21. 3. 1950, for report of the Select Committee, see *ibid*, dated the 29th July, 1950, pp. 1-5 and for Proceedings in the Assembly, see Proceedings of the Orissa Legislative Assembly, 1950, Vol. XII, No. 37. pp. 1952-1957 and No. 38 pp, 1974-2000.]

## **PREAMBLE**

An Act to provide for the construction and improvement of public embankments for the prevention of flood in the State of Orissa

Whereas it is expedient to provide for the construction and improvement of public embankments for the prevention of flood in Orissa :

It is hereby enacted as follows :

## **Statement of Objects and Reasons.--**

The cost of maintenance of public (Government) embankments has enormously risen in recent years due to high cost of labour and materials. There is considerable demand among the people for erection of new embankments and strengthening of existing ones, especially due to gradual rise in the flood level of different rivers in the deltaic districts. It has therefore been settled to raise a capital levy from persons benefited by the schemes for reconstruction of the existing embankments and construction of new ones by Government. The object of the present legislation is to make it obligatory for the people benefited by public embankments to make contribution for the construction of new embankments and reconstruction of existing ones.

## **Section 1 - Short title, extent and commencement**

(1) This Act may be called the Orissa Public Embankment Construction and Improvement Act, 1950.

(2) It extends to the whole of the State of Orissa.

(3) It shall come into force at once.

## **Section 2 - Definitions**

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

(1) "Collector" means the Collector of a district and shall include an Additional District Magistrate and any other officer specially appointed by the State Government to perform the functions of a Collector under this Act;

(2) "embankment" includes (a) every bank, dam, wall and dyke made or used for

excluding water from, or for retaining water upon any land; (b) every sluice, spur, groyne, training-wall or other work annexed to, or portion of any such embankment ; and (c) every bank, dam, dyke, wall, groyne or spur made or erected for the protection of any such embankment or of any land from erosion or overflow by or of rivers, tides, waves or waters;

(3) "improvement" used with reference to an embankment shall mean any work which adds to or alters such embankment in a manner directly more beneficial to the purpose for which it was constructed and includes the renewal of such works, or alterations therein or additions thereto;

(4) "public embankment" means an embankment maintained by the State Government;

(5) "prescribed" means prescribed by rules made by the State Government under this Act.

### **Section 3 - Initiation of proceedings and hearing of objections**

(1) Whenever the State Government decides that construction or improvement of any public embankment for the prevention or control of flood should be undertaken, a notice to that effect shall be published in the prescribed manner inviting objections, if any, from the persons likely to be affected by the project.

(2) If objections are received, a date, which shall not be less than fifteen days after the expiration of the prescribed period, shall be fixed by the Collector for hearing the objections received during the said period relating to the proposed work. The Collector shall hear the objections on the date appointed or on any subsequent date to which the hearing may be adjourned and hold such inquiry as he thinks fit.

(3) After holding the inquiry referred to in Sub-section (2) the Collector shall forward a report on the objections to the State Government.

(4) After receipt of the report and in all cases before the construction or improvement is undertaken, the State Government shall cause an examination of the proposed work to be made by the Chief Engineer (irrigation) or any other officer specially authorised in this behalf by the State Government.

(5) The State Government after considering the report of the Collector and the recommendation of the Commissioner, if any, and the report under Sub-section (4) may, by notification, direct that the proposed work shall not be executed or that it shall be executed with such modifications, if any, as the State Government may specify therein.

(6) At any time after the publication of the notification under Sub-section (5) the State Government may, by further notification direct that the proposed work shall not be executed or that it shall be executed with such further modifications as may be specified in that notification.

### **Section 4 - Recovery of cost**

(1) The cost incurred in the construction or improvement of any public embankment may be recovered, in whole or in part, as the State Government may deem fit, from the persons who are benefited or are likely to be benefited thereby.

(2) If two or more persons are benefited or are likely to be benefited by such construction or improvement, the Collector shall apportion the cost thereof among them in the prescribed manner and so far as practicable in the same proportion as the area benefited and owned by each of such persons respectively bears to the total area so benefited.

(3) All costs under this section shall be payable in equal installments on such days as the Revenue Commissioner or the Commissioner, Northern Division, as the case may be, shall direct :

Provided that no installment shall exceed eight annas for every acre of land in respect of which the same is payable and that not more than four installments shall be payable in any one year :

Provided further that when a new embankment is constructed and the cost incurred in the construction has already been realised therefor no cost on account of improvement of such embankment, effected within ten years after the completion of the construction, shall be realised from the persons benefited or are likely to be benefited thereby.

(4) Installment or installments remaining unpaid in any year shall be recovered at the expiry of the year as an arrear of land revenue.

## **Section 5 - Settlement of dispute**

If there is any dispute as to the person or persons who shall be liable to pay the cost of construction or improvement of the embankment or as to the appointment of such expenses amongst those persons, such dispute shall be decided by the Collector.

## **Section 6 - Appeal**

(1) Any person aggrieved by any order passed under Section 5, may, within thirty days from the date of the order present an appeal to the Revenue Commissioner or the Commissioner, Northern Division, as the case may be.

(2) The Revenue Commissioner or the Commissioner, Northern Division, as the case may be, shall then send for the record of the case from the Collector and, after perusing such record and making such further enquiries, as he thinks fit, shall decide the appeal.

(3) The decision of the Revenue Commissioner or the Commissioner Northern Division, as the case may be and subject only to such decision an order of the Collector under Section 5 shall, subject to the provision of Sub-section (4), be final.

(4) The State Government may, upon application or of their own motion, revise any order passed under Sub-section (3).

## **Section 7 - Protection of action taken under the Act**

(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or of the rules or orders made thereunder

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any provision of this Act or of any rule or order made thereunder.

## **Section 8 - Power to make rules**

The State Government may make rules to carry out the purposes of this Act and for the guidance of officers in all matters connected with its enforcement.

Orissa State Acts