

ACT No. XI OF 1928.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 28th
March, 1928.)

An Act further to amend the Chittagong Port Act, 1914, for certain purposes.

WHEREAS it is expedient further to amend the Chittagong Port Act, 1914, in order to transfer to the Governor General in Council certain powers conferred therein on the Local Government, and in order to reconstitute the body of Commissioners incorporated to administer the port; It is hereby enacted as follows:—

1. (1) This Act may be called the Chittagong Port (Amendment) Act, 1928.

Short title and commencement.

(2) It shall come into force on the 1st day of April, 1928.

2. In sub-section (1) of section 5, section 9, clause (c) of section 12, section 14, sub-section (1) of section 15, section 17, clause (f) of section 25, sub-section (3) of section 28, clause (ii) of section 30, sub-section (3) of section 33, sub-section (2) of section 35, sub-section (3) of section 37, sub-section (2) of section 39, the proviso to section 41, sub-section (1) of section 43, section 44, sub-section (1) of section 45, section 49, the second paragraph of section 51, sub-section (2) of section 57, sub-sections (1) and (3) of section 58, section 59, the proviso to section 69, sub-section (3) of section 78, sub-section (1) of section 82 and the proviso thereto, section 83 and the proviso thereto, clause (8) of section 84, sub-section (1) of section 86, sub-sections (1), (2), (3) and (4) of section 87, sub-section (2) of section 88, section 89 and the proviso thereto, sections 91, 92 and 93, sub-section (1) of section 94, sections 95 and 96, sub-sections (1), (2) and (3) of section 97, sub-sections (1) and (2) of section 98 and the proviso to the latter sub-section, sections 99 and 100, and sub-sections (1) and (2) of section 101 of the Chittagong Port Act, 1914 (hereinafter referred to as the said Act), for the words "Local Government", wherever they

Substitution of "Governor General in Council" for "Local Government" in certain sections of Ben. Act V of 1914.

Ben. Act V of 1914.

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they occur, the words "Governor General in Council" shall be substituted.

Substitution of "Gazette of India" for "Calcutta Gazette" in certain sections of Ben. Act V of 1914.

3. In section 19, sub-section (1) of section 43, section 44, sub-section (1) of section 45, section 46, sub-section (2) of section 57, sub-section (5) of section 58, and sub-section (4) of section 87 of the said Act, for the words "Calcutta Gazette" the words "Gazette of India" shall be substituted.

Substitution of new section for section 7, Ben. Act V of 1914.

4. For section 7 of the said Act, the following section shall be substituted, namely:—

"7. There shall be twelve Commissioners, as follows:—

Composition of the body corporate.

(a) the Chairman,
(b) the Collector of Chittagong District, *ex-officio*,
(c) the Customs-collector of the port, *ex-officio*,
(d) one Commissioner appointed by the Governor General in Council,

(e) one Commissioner appointed by the administration of the Assam-Bengal Railway,

(f) three Commissioners elected by the Chamber of Commerce at Chittagong,

(g) three Commissioners elected by the Chittagong Indian Merchants' Association, or by such body or bodies or firms as the Governor General in Council may, from time to time, select as best representing the interests of the Indian mercantile community at Chittagong, and

(h) one Commissioner elected by the municipal commissioners of Chittagong."

Substitution of new section for section 8, Ben. Act V of 1914.

5. For section 8 of the said Act, the following section shall be substituted, namely:—

Mode of election.

"8. The election of Commissioners shall be made in such manner as may be determined by the electing bodies in each case, subject to the approval of the Governor General in Council."

Amendment of section 9, Ben. Act V of 1914.

6. In section 9 of the said Act, for the figure "8" the figure "7" shall be substituted.

Substitution of new section for section 10, Ben. Act V of 1914.

7. For section 10 of the said Act, the following section shall be substituted, namely:—

Appointment of Chairman and Vice-Chairman.

"10. (1) The Chairman shall be appointed by the Governor General in Council.

(2) A

(2) A Vice-Chairman shall be elected by the Commissioners from amongst themselves, at a special meeting called for the purpose, and his appointment shall be subject to the approval of the Governor General in Council."

8. For section 11 of the said Act, the following section shall be substituted, namely:—

Substitution of new section for section 11, Ben. Act V of 1914.

"11. (1) The Chairman shall hold office until the Governor General in Council accepts his resignation or cancels his appointment.

Tenure of office.

(2) The Vice-Chairman shall hold office until a new body of elected Commissioners shall have been duly elected, or until the Governor General in Council accepts his resignation, or until the Commissioners, at a special meeting called for the purpose and with the approval of the Governor General in Council, remove him from office.

Explanation.—A new body of elected Commissioners shall be deemed to have been duly elected when, at a general election of such Commissioners, four or more elections have been notified under section 19.

(3) A Commissioner appointed under clause (d) or clause (e) of section 7 shall hold office until he resigns, or until the authority appointing him cancels his appointment.

(4) An elected Commissioner shall, subject to the provisions of this Act, hold office for a term of two years or thereafter until his successor shall have been duly elected, and shall be eligible for re-election; but the Governor General in Council may, at any time, accept the resignation of any such Commissioner."

9. For section 14 of the said Act, the following section shall be substituted, namely:—

Substitution of new section for section 14, Ben. Act V of 1914.

"14. The elections of Commissioners shall be held before the expiry of the term of two years specified in sub-section (4) of section 11, or within one month thereafter, and all vacancies shall be filled within one month from their occurrence."

Time for holding elections and filling vacancies.

10. In sub-section (1) of section 15 of the said Act, for the word "think" the word "thinks" shall be substituted.

Amendment of section 15, Ben. Act V of 1914.

11. In section 16 of the said Act,—

(a) for the figure "3" the figure "4" shall be substituted;

Amendment of section 16, Ben. Act V of 1914.

(b) after

(b) after the words "filled up", the words "by election" shall be inserted;

(c) the words "by election or appointment, as the case may be," shall be omitted; and

(d) the words "or appointed" shall be omitted.

Substitution of new section for section 18, Ben. Act V of 1914.

Leave of absence of Chairman.

12. For section 18 of the said Act, the following section shall be substituted, namely:—

"18. The Governor General in Council may grant leave of absence to the Chairman, and may appoint a person to officiate for him during his absence on leave. Any person so appointed shall be deemed to be the Chairman for the purposes of this Act."

Omission of section 23, Ben. Act V of 1914.

13. Section 23 of the said Act shall be omitted.

Amendment of section 25, Ben. Act V of 1914.

14. In clause (a) of section 25 of the said Act, for the word "four" the word "five" shall be substituted.

Amendment of section 38, Ben. Act V of 1914.

15. In clause (i) of section 38 of the said Act, before the words "by notification", the words "with the previous sanction of the Governor General in Council and" shall be inserted.

Amendment of section 51, Ben. Act V of 1914.

16. In section 51 of the said Act,—

(a) for the words "When the Local Government appoint," the word "Where," shall be substituted; and

(b) before the words "to be a dock" the words "is appointed" shall be inserted.

Amendment of sections 61, 63 and 66, Ben. Act V of 1914.

17. In sub-section (2) of section 61, sub-section (1) of section 63 and in section 66 of the said Act, for the words "Collector of Customs", wherever they occur, the word "Customs-collector" shall be substituted.

Substitution of new section for section 71, Ben. Act V of 1914.

Resumption of property by Government.

18. For section 71 of the said Act, the following section shall be substituted, namely:—

"71. (1) If any portion of the property specified in Part I of the Third Schedule, or which may have been transferred by the Local Government to the Commissioners after the 1st day of July, 1914, or which may hereafter be so transferred, otherwise than in exchange for its market value, is required by the Local Government for a public purpose, it may be resumed by that Government, with the previous sanction of
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the Governor General in Council, without claim to compensation on the part of the Commissioners, except—

- (a) for the amount of any consideration or other payment made in respect of the transfer to the Commissioners of the property to be resumed,
- (b) for the cost of revetment and other works for the protection of the property to be resumed, effected by the Port Commissioners or their lessees subsequent to the transfer, and
- (c) for the cost of buildings and other permanent structures on the property to be resumed, erected by the Commissioners or their lessees, subsequent to the transfer:

Provided that—

- (i) the compensation to be awarded under clause (b) shall not in any case exceed the market value of the land to be resumed at the time of the resumption; and
- (ii) the compensation to be awarded under clause (c) shall be either the original cost of the building or structure or the market value thereof at the time of the resumption, whichever is less.

(2) If any question arises between the Commissioners and the Local Government as to the boundaries of any portion of the land specified in Part I of the Third Schedule, or which may have been transferred by the Local Government to the Commissioners after the 1st day of July, 1914, or which may hereafter be so transferred, otherwise than in exchange for its market value, the Local Government may define and demarcate such boundaries, and submit the case for the orders of the Governor General in Council, whose decision shall be final.

(3) If any question arises as to the adequacy of the compensation proposed to be paid under clause (a), clause (b) or clause (c) of sub-section (1), the Local Government shall submit a report to the Governor General in Council, whose decision shall be final.

(4) If any question arises as to the necessity of the resumption of any land under this section, or as to the relative importance of such land to the Local Government and to the Commissioners, the Local Government shall submit a statement of the case to the Governor General in Council, whose decision shall be final."

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Amendment of
section 74, Ben.
Act V of 1914.

19. In section 74 of the said Act,—

(a) for the words “ after notification in the *Calcutta Gazette* ” the words “ with the previous sanction of the Governor General in Council and after notification in the *Gazette of India* ” shall be substituted; and

(b) the provisos shall be omitted.

Amendment of
section 84, Ben.
Act V of 1914.

20. In section 84 of the said Act,—

(a) in sub-section (2), for the words “ the Local Government ”, where they occur in two places, the word “ Government ” shall be substituted;

(b) in sub-section (4), for the words “ the Local Government may, from time to time, require ” the words “ may be required ” shall be substituted; and

(c) in sub-section (5), for the words “ Local Government ”, where they occur for the second time, the words “ Governor General in Council ” shall be substituted.

Amendment of
section 85, Ben.
Act V of 1914.

21. In section 85 of the said Act, for the words “ Local Government may from time to time require as their ” the words “ Governor General in Council and the Local Government may, from time to time, agree upon as a reasonable ” shall be substituted.

Amendment of
section 87, Ben.
Act V of 1914.

22. In sub-section (1) of section 87 of the said Act, for the words “ they think ” the words “ he thinks ” shall be substituted.

Amendment of
section 101,
Ben. Act V of
1914.

23. In section 101 of the said Act,—

(a) in sub-section (1), for the word “ are ”, where it first occurs, the word “ is ” shall be substituted; and

(b) in sub-section (2), for the word “ their ” the word “ his ” shall be substituted.

Saving of acts
done under
Ben. Act V of
1914.

24. When anything done under the said Act is in force immediately prior to the commencement of this Act, it shall be deemed, as from the commencement of this Act, to have been done under the said Act as hereby amended.