

- (c) which has been laid down by survey under this Act,-

the Collector may, if he thinks it desirable for any reason that the boundary so determined or laid down shall be relaid, proceed to relay the boundary in the manner prescribed in section 44 of this Act,

and for the purpose of so relaying the boundary he may make any inquiries and surveys which may be necessary, and such inquiries and surveys shall be deemed to be proceedings under section 6, and the Collector shall exercise in respect thereof all powers which he may exercise in respect of inquiries and surveys under that section.

In certain cases Collector may cause marks to be erected

46. Whenever the Collector shall have determined a boundary which was in dispute, and the order shall have become final,

and whenever a boundary which has been supplied by the survey officers, or has been determined under this Act, has been altered by a decree of any Civil Court which has become final,

and whenever it shall come to the notice of the Collector that any boundary has been determined by a competent Court or authority,

the Collector may cause such marks as he may think fit to be erected in order to secure the boundary permanently, and the provisions of Parts III and IV shall, so far as is possible, be applicable to boundary-marks which are erected under this section and to the apportionment of the cost thereof.

PART VI

MISCELLANEOUS

Joint *zamindars* subject to every liability imposed on single *zamindars*

47. Whenever any estate or tenure is held jointly by two or more *zamindars* or tenure-holders, all such *zamindars* and tenure-holders shall be jointly and severally liable in respect of every liability imposed on *zamindars* or tenure-holder respectively by this Act,

and any share-holder in any estate or tenure who may have paid the amount finally apportioned to such estate or tenure may recover from his co-sharers such sums as may be payable in respect of their shares as arrears of rent, or may take credit for such sums in any adjustment of accounts between himself and his co-sharers.

48. Every notice in and by this Act required to be served on any person may be served-

Service of
notice

- (1) by delivering the same to the person to whom it is directed, or, on failure of such service, by posting the same on some conspicuous part of the house in which the said person resides, or by delivering the said notice to a general agent of the person to whom such notice is directed; or
- (2) by sending a registered letter containing such notice directed to the said person at his usual place of abode, or to the place where he may be known to reside; or
- (3) by posting a copy of the notice at any *mal-cutchery* of the estate or tenure of the person to whom the notice is directed; or if no such *mal-cutchery* be found, on some conspicuous place on the said estate or tenure to which such notice relates, and by delivering, in the case of estates paying their annual revenue by four instalments, another copy thereof to any agent who shall have paid an instalment of revenue next after the preparation of such notice.

In all cases where two or more persons are holders of an estate or tenure, service of notice under this clause shall be deemed to be good and sufficient service on each and all of such persons.

49. No proceedings under this Act shall be affected by reason of any mistake in the name of any person thereby rendered liable to pay any sum of money, or in the description of any estate or tenure or land in respect of which he is rendered liable to pay, or by reason of any other informality, provided the directions of this Act be in substance and effect complied with;

No proceedings
under Act
affected by
mistake or mis-
description

and on proceedings under this Act shall be affected by reason of the omission to serve any notice on any *zamindars* whose name is not recorded on the Collector's registers as owner of the estate in respect of which the notice is required to be served.

Power of
Collector to
enforce
attendance of
witnesses

50. For the purpose of any inquiry under this Act the Collector shall, in addition to every power conferred specially by this Act, have power to summon and enforce the attendance of witnesses and compel the production of documents by the same means (as far as may be), and in the same manner, as is provided in the case of a Court under the Code of Civil Procedure 1908.

Daily fine for
failure to
comply with
requisition in
notice

51. If any person shall fail to comply with a requisition contained in any special notice served under section 7 of this Act, or in any notice served for the purpose of any inquiry under Part V of this Act, within the time specified in such notice, the Collector may impose upon him such daily fine as he may think fit, not exceeding fifty taka, and such fine shall be payable daily until the requisition is complied with; and the Collector may proceed from time to time to levy any amount which has become due in respect of any such fine, notwithstanding that an appeal against the order imposing such fine may be pending:

Provided that whenever the amount levied under any such order shall have exceeded five hundred taka, the Collector shall report the case specially to the ¹[Commissioner of the division] and no further levy in respect of such fine shall be made otherwise than by authority of the ²[said Commissioner].

Penalty for no
giving notice of
injury to
boundary mark

52. Any person being bound by the provisions of section 19 to give notice to the Collector in respect of any boundary-mark having been injured, destroyed or removed, or requiring repairs, who shall fail to give such notice, shall be liable to a fine not exceeding one hundred taka, to be imposed by order of the Collector.

¹ The words "Commissioner of the division" were substituted, for the words "Director of Land Records and Surveys" by section 2 and Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976).

² The words "said Commissioner" were substituted, for the words "said Director" by section 2 and Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976).

53. Any person convicted before a Collector of wilfully erasing, removing or damaging any boundary-mark not being a land-mark fixed by the authority of a public servant within the meaning of section 434 of the ¹[Penal Code] which has been lawfully erected, may be ordered by the convicting officer to pay such sum, not exceeding two hundred taka, for each mark so erased, removed or damaged, as the said officer may think fit, in addition to such sum as may be necessary to defray the expense of restoring the boundary-mark so erased, removed or damaged.

Penalty for removing boundary-marks

54. The Collector may award any portion of a fine imposed under either of the two last preceding sections, and which may be realised, to any person who may have given information leading to the imposition of the fine.

Collector may award portion of fine to informer

55. A fine under sections 51, 52 and 53 may be levied as far as may be practicable, in the manner provided in sections 386, 387 and 389 of the Code to Criminal Procedure, 1898; but if no movable property belonging to the person from whom the fine is due is found in the district within which the order was passed, then such fine may be levied as if it were an arrear of revenue.

Levy of fine

56. Whenever the person erasing, removing or damaging any boundary-mark cannot be discovered, or if for any other reason it is found impracticable to recover from him the sum which he has been so ordered to pay, the boundary-mark shall be restored or repaired by the Collector, and the expenses thereby incurred shall be recovered from the occupants, of such of the conterminous lands and in such proportions, as to the Collector may seem fit.

When person removing boundary mark cannot be found, Collector may repair

57. Every amount which may become due to the Collector under the provisions of this Act in respect of any expenses incurred or of any notices served, or of any costs payable by any party in an appeal, shall be deemed to be a demand.

Every amount due deemed a demand

58. Except as provided in sections 59 and 60, no appeal shall lie as of right, against any order passed under this Act by any officer; but

Appeal against orders

¹ The words "Penal Code" were substituted, for the words "Pakistan Penal Code" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

Supervision of proceedings

the proceedings and orders of Assistant Superintendents and of Deputy Collectors under this Act shall be subject to the supervision and control of the Superintendent of Survey or Collector;

the proceedings and orders of the Superintendent of Survey and of the Collector, to the supervision and control of the ¹[Commissioner of the division]; and

the proceedings and orders of all officers, to the supervision and control of the Government:

Government may restrict functions of Commissioner

Provided that the Government may order that in the course of any survey under this Act, the functions of the ²[Commissioner] shall be restricted to the decision of appeals under section 60, and that the general powers of control and supervision over the Superintendent of Survey or Collector and their subordinate officers may be exercised by the Government direct.

Appeal against certain orders of Assistant Superintendent or Deputy Collector

59. An appeal, if presented within one month of the date of the order appealed against, shall lie to the Collector or Superintendent of Survey against every order of a Deputy Collector or of an Assistant Superintendent—

- (a) determining under section 8 the amount to be paid as the price of materials or labour supplied;
- (b) determining under section 10 the amount to be paid as compensation;
- (c) deciding a boundary-dispute;
- (d) imposing a fine under this Act.

Appeal against certain orders of Collector or Superintendent of Survey

60. An appeal presented within one month of the date of the order appealed against, shall lie to the ³[Commissioner of the division] against every order of the Collector or Superintendent of Survey—

¹ The words "Commissioner of the division" were substituted, for the words "Director of Land Records and Surveys" by section 2 and Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976).

² The word "Commissioner" was substituted, for the words "Director of Land Records and Surveys" by section 2 and Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976).

³ The words "Commissioner of the division" were substituted, for the words "Director of Land Records and Surveys" by section 2 and Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976).

- (a) determining under section 8 the amount to be paid as value of materials or labour supplied;
- (b) determining under section 10 the amount to be paid as compensation;
- (c) determining a disputed boundary;
- (d) imposing a fine of more than fifty taka on any person:

Provided that the order appealed against under clauses (a), (b) and (c) shall not have been passed by the Collector or Superintendent of Survey on an appeal preferred against the order of a subordinate officer.

61. The ¹[Commissioner], Collector or Superintendent of Survey may pass such orders as they shall think fit in respect of the payment of costs incurred by any party in an appeal.

Orders as to costs on appeal

62. No suit shall be brought to set aside an order of a Superintendent of Survey, Collector, Assistant Superintendent or Deputy Collector deciding a boundary-dispute, unless an appeal shall have been first preferred under section 59 or section 60, or unless the person suing was at the time when such order was passed a minor, or insane or an idiot.

No suit to be brought unless appeal first preferred

63. The Government may lay down rules not being inconsistent with this Act,-

Power of Government to make rules

to provide for the preparation of maps and registers, and for the collection and record of any information in respect of any land to be surveyed under this Act;

and generally to provide for the proper performance of all things to be done, and for the regulation of all proceedings to be taken, under this Act.

All inquiries ordered to be made for the collection of information under such rules shall be deemed to be inquiries under section 6, and the Collector shall exercise in respect thereof all powers which he may exercise in respect of inquiries under that section.

¹ The word "Commissioner" was substituted, for the words "Director of Land Records and Surveys" by section 2 and Schedule of the Bangladesh Laws (Amending) Ordinance, 1976, (Ordinance No. IX of 1976).