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Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 19th October, 1982/Asvina 27, 1904 (Saka)

The following Act of Parliament received the assent of the Vice-President discharging the functions of the President on the 18th October, 1982 and is hereby published for general information:—

THE NATIONAL WATERWAY (ALLAHABAD-HALDIA
STRETCH OF THE GANGA-BHAGIRATHI-HOOGHLY
RIVER) ACT, 1982

No. 49 of 1982

[18th October, 1982.]

An Act to provide for the declaration of the Allahabad-Haldia Stretch of the Ganga-Bhagirathi-Hooghly river to be a national waterway and also to provide for the regulation and development of that river for purposes of shipping and navigation on the said waterway and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the National Waterway (Allahabad-Haldia Stretch of the Ganga-Bhagirathi-Hooghly River) Act, 1982.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. The Allahabad-Haldia Stretch of the Ganga-Bhagirathi-Hooghly river, the limits of which are specified in the Schedule, is hereby declared to be a national waterway.

Declaration of a certain stretch of Ganga-Bhagirathi-Hooghly river to be national waterway.

Declaration as to expediency of control by the Union of Ganga-Bhagirathi-Hooghly river for certain purposes.

3. It is hereby declared that it is expedient in the public interest that the Central Government should take under its control the regulation and development of Ganga-Bhagirathi-Hooghly river for purposes of shipping and navigation on the national waterway to the extent hereinafter provided.

Definitions.

4. In this Act, unless the context otherwise requires,—

(a) "Advisory Committee" means an Advisory Committee constituted under section 8;

(b) "appurtenant land" means all lands appurtenant to the national waterway, whether demarcated or not;

(c) "channel" means any waterway, whether natural or artificial;

(d) "conservancy" includes dredging, training, closure, diversion or abandoning channels;

(e) "conservancy measures" means measures for purposes of conservancy, but does not include measures for protection of banks against floods or for restoring banks which have become eroded mainly on account of reasons not connected with shipping and navigation;

(f) "infrastructure" includes structures such as docks, wharves, jetties, landing stages, locks, buoys, inland ports, cargo handling equipment, road and rail access and cargo storage spaces, and the expression "infrastructural facilities" shall be construed accordingly;

(g) "national waterway" means the waterway declared by section 2 to be a national waterway;

(h) "navigable channel" means a channel navigable during the whole or a part of the year;

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

(j) "rules" means rules made by the Central Government under this Act.

Responsibility for regulation and development of national waterway.

5. (1) It shall be the responsibility of the Central Government to regulate and develop the national waterway and to secure the efficient utilisation of the waterway for shipping and navigation.

(2) In particular and without prejudice to the generality of the foregoing provision, the Central Government may—

(a) carry out surveys and investigations for the development, maintenance and better utilisation of the national waterway and the appurtenant land for shipping and navigation, and prepare plans in this behalf;

(b) make and open new navigable channels;

(c) clear, widen, deepen or divert or otherwise improve the channels;

(d) provide or permit setting up of infrastructural facilities;

(e) carry out conservancy measures and training works and do all other acts necessary for the safety and convenience of shipping and navigation and improvement of the national waterway;

(f) control activities such as throwing rubbish, dumping or removal of material, in or from the bed of the national waterway and appurtenant land, in so far as they may affect, safe and efficient shipping and navigation, maintenance of navigable channels, river training and conservancy measures;

(g) remove or alter any obstruction or impediment in the national waterway and the appurtenant land which may impede the safe navigation or endanger safety of infrastructural facilities or conservancy measures where such obstruction or impediment has been lawfully made or has become lawful by reason of long continuance of such obstruction or impediment or otherwise, after making compensation to person suffering damage by such removal or alteration;

(h) provide for the regulation of navigation and traffic (including the rule of the road) on the national waterway;

(i) regulate the construction or alteration of structures on, across or under the national waterway;

(j) perform such other functions as may be necessary to carry out the purposes of this Act.

(3) Any dispute arising out of or concerning the compensation referred to in clause (g) of sub-section (2) shall be determined according to the law relating to like disputes in the case of land required for public purposes.

6. (1) The Central Government may, if it considers it necessary or expedient so to do for the purposes of this Act, particularly for the purpose of discharging its responsibility under section 5, exercise any jurisdiction, right or power with respect to the national waterway or any lands or infrastructure appurtenant thereto which it could have exercised if the national waterway and the lands and infrastructure appurtenant thereto had been vested in that Government by this sub-section.

(2) If any dispute arises as to whether any land or structure is a land or infrastructure appurtenant to the national waterway, the Central Government and the other party or parties to the dispute shall endeavour to resolve the dispute by negotiations or conciliation in such manner as may be prescribed.

(3) Notwithstanding anything contained in sub-section (2), if the Central Government considers whether before initiating action for resolving a dispute by negotiations or conciliation or at any stage after initiating such action, that the dispute is of such a nature that it is necessary or expedient to refer it to arbitration, the Central Government shall, in such form and in such manner as may be prescribed, refer the matter in dispute to an arbitrator who shall be appointed by the Chief Justice of India.

(4) The arbitrator may appoint two or more persons as assessors to assist him in the proceedings before him.

Rights,
etc., of
Central
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respect
to nation-
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way, lands
and in-
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thereto.

(5) The decision of the arbitrator shall be final and binding on the parties to the dispute and shall be given effect to by them.

(6) Nothing in the Arbitration Act, 1940 shall apply to any arbitration under this section. 10 of 1940.

Application, etc., of certain laws.

7. (1) The provisions of this Act shall be in addition to the provisions of the Major Port Trusts Act, 1963 and in particular nothing in this Act shall affect any jurisdiction, functions, powers or duties required to be exercised, performed or discharged under the Major Port Trusts Act, 1963 by the Board of Trustees for the major port of Calcutta or by any officer or authority in, or in relation to, the portion of the national waterway falling within the limits of the said port. 38 of 1963.

(2) Nothing in this Act shall affect the operation of the Inland Vessels Act, 1917 or any other Central Act (other than the Major Port Trusts Act, 1963) or any State or Provincial Act in force immediately before the commencement of this Act with respect to shipping and navigation on the waterway declared by section 2 to be a national waterway but any jurisdiction, functions, powers or duties required to be exercised, performed or discharged by a State Government or any officer or authority subordinate to a State Government under any such Act in so far as such jurisdiction, functions, powers or duties relates or relate to shipping and navigation on the said waterway or any matter incidental thereto or otherwise connected therewith, shall after such commencement be exercised, performed or discharged by the Central Government. 1 of 1917. 38 of 1963.

(3) The Central Government may, by notification in the Official Gazette, direct that any jurisdiction, functions, powers or duties which it may exercise, perform or discharge by virtue of the provisions of sub-section (2) under any Act referred to in that sub-section shall, subject to such conditions, if any, as may be specified in the notification, be exercised, performed or discharged also by—

(a) such officer or authority subordinate to the Central Government, or

(b) such State Government or officer or authority subordinate to a State Government,

as may be specified in the notification.

Advisory Committees.

8. (1) Subject to any rules made in this behalf, the Central Government may from time to time constitute one or more Advisory Committees to advise the Central Government on matters concerning the administration of this Act.

(2) The Advisory Committee or the Advisory Committees referred to in sub-section (1) shall consist of such number of persons to represent the interests connected with shipping and navigation and allied aspects as the Central Government may deem fit.

Fees for services or benefits rendered in the national waterway.

9. (1) The Central Government may, by notification in the Official Gazette, levy fees at such rates as may be laid down by rules made in this behalf for services or benefits rendered in relation to the use of the national waterway for the purposes of navigation, infrastructural facilities, including facilities for passengers and facilities relating to berthing of vessels, handling of cargoes and storage of cargoes.

(2) The fees levied under sub-section (1) shall be collected in such manner as may be prescribed.

10. Subject to any rules made in this behalf, any officer subordinate to the Central Government or to a State Government or to any authority subordinate to the Central Government or a State Government who is authorised in this behalf by the Central Government by notification in the Official Gazette may, whenever it is necessary so to do for any of the purposes of this Act, at all reasonable times, enter upon any land or premises and—

Power to enter.

- (a) make any inspection, survey, measurement, valuation or inquiry,
- (b) take levels,
- (c) dig or bore into sub-soil,
- (d) set out boundaries and intended lines of work,
- (e) mark such level boundaries and lines by placing marks and cutting trenches, or
- (f) do such other acts or things as may be prescribed:

Provided that no such officer shall enter any building or any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least twenty-four hours' notice in writing of his intention to do so.

11. Whoever—

Penalties.

- (a) destroys, pulls down, removes, injures or defaces any pillar, post or stake or marks fixed on the national waterway and the appurtenant land, or any notice or other matter put up, inscribed or placed under this Act, or
- (b) obstructs any person from exercising his powers and performing his functions under this Act, or
- (c) damages any works or property belonging to the Central Government, or
- (d) fails to furnish any information required for the purposes of this Act,

shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

12. The Central Government may, by notification in the Official Gazette, direct that any function, power (except the powers under sections 14 and 15) or duty which it may perform, exercise or discharge under this Act shall, subject to such conditions, if any, as may be specified in the notification, be performed, exercised or discharged also by—

Power to delegate.

(a) such officer or authority subordinate to the Central Government, or

(b) such State Government or officer or authority subordinate to a State Government,

as may be specified in the notification.

13. No suit, prosecution or other legal proceeding shall lie against the Central Government or a State Government or an authority subordinate to such Government or an officer subordinate to such Government or authority for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

Protection of action taken in good faith.

Power
to make
rules.

14. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which, and the conditions subject to which, any function in relation to the matters referred to in section 5 may be performed;

(b) the rule of the road on the national waterway;

(c) the safe, efficient and convenient use, management and control of the infrastructures and infrastructural facilities;

(d) the reception, portorage, storage and removal of goods brought on the national waterway, and the procedure to be followed for taking charge of goods which may have been damaged before landing, or may be alleged to have been so damaged;

(e) regulating, declaring and defining the docks, wharves, jetties, landing stages on which goods shall be landed from vessels and shipped on board vessels;

(f) regulating the manner in which, and the conditions under which, the loading and unloading of vessels on the national waterway shall be carried out;

(g) the exclusion from the national waterway of disorderly or other undesirable persons and of trespassers;

(h) the manner in which the Central Government shall endeavour to resolve, under sub-section (2) of section 6, the disputes referred to therein, the form and manner in which such disputes may be referred, under sub-section (3) of that section to arbitration and the procedure to be followed in such arbitration proceedings;

(i) the composition of the Advisory Committees, the term of office of members of such committees, the allowances, if any, payable to them, and the manner in which the Advisory Committees shall conduct their business;

(j) the rates at which fees for services and benefits referred to in section 9 may be levied and the manner in which such fees shall be collected;

(k) the conditions and restrictions with respect to the exercise of the power to enter under section 10 and the matters referred to in clause (f) of that section;

(l) the periodical inspection of the national waterway and the submission of the inspection reports to the Central Government;

(m) the reports on works carried out on the national waterway;

(n) any other matter which is to be, or may be, prescribed or in respect of which provision is to be, or may be, made by rules.

(3) Any rules made under this Act may provide that a breach thereof shall be punishable with fine which may extend to one thousand rupees and where the breach is a continuing one with further fine which may extend to one hundred rupees for every day after the first during which such breach continues.

(4) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

15. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary for removing the difficulty:

Removal
of diffi-
culties.

Provided that no order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

THE SCHEDULE

(See section 2)

LIMITS OF THE NATIONAL WATERWAY (ALLAHABAD-HALDIA STRETCH OF THE GANGA-BHAGIRATHI-HOOGHLY RIVER)

From road bridge at Allahabad across the river Ganga, about 2 kms. upstream of the confluence of the rivers Ganga and Yamuna at Triveni to the inland waterway limit on the tidal waters of the river Hooghly from a line drawn between No. 1 Refuge house at the entrance to Baratola river commonly called channel creek, to a position 2.5 kms. due south of Saugor lighthouse, and then connected to the right or south bank at the entrance to the Hijili or Russulpore river, through river Ganga, lock canal and feeder canal at Farakka, river Bhagirathi and river Hooghly.

R. V. S. PERI SASTRI,
Secy. to the Govt. of India.