

THE EMBANKMENT ACT (1909)

Burma Act IV, 1909
15 October 1910

1-2. [...]

3. In this Act, unless there is anything repugnant in the subject or context:

(1) “embankment” means any embankment constructed for the purpose of excluding, regulating or retaining water, and includes all earthen walls, dams, canals, drains, piers, groins, sluices, buildings, water-gauges, bench-marks and other works subsidiary to any such embankment;

(2) “kazin” means any small bank or ridge surrounding or dividing a field;

(3) “Embankment-officer” means any officer appointed by a notification of the President of the Union to be an Embankment-officer in respect of any embankment; and

(4) “cattle” includes also elephants, buffaloes, horses, mares, geldings, ponies, colts, tillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids.

4. The Deputy Commissioner of any district in which the whole or any part of an embankment is situated shall cause to be prepared:-

(a) a list of the village-tracts in the neighbourhood of the embankment of each of which the headman shall be liable to furnish able-bodied persons for employment on such embankment when so required under section 5, clause (a);

(b) a list or lists setting down the maximum number of such able-bodied persons which each headman shall be liable to furnish.

The Deputy Commissioner may, from time to time, add to or alter such lists.

5. Whenever it appears to the Embankment-officer that, unless some work is quickly executed in connection with an embankment, loss of life or extensive damage to property will ensue, and that the labourers or materials required for the execution of such work cannot be obtained in the ordinary course in time to enable him to execute such work with the expedition necessary in order to avert such loss or damage, he may, by order under his hand, direct that the provisions of this section shall be put into operation for the execution of such work; and thereupon:

(a) the headman of any village-tract named in the aforementioned list shall, if required so to do by such officer or by any person authorized by him in this behalf, be bound to furnish such number of able-bodied persons, not being in excess of the total number set down in

the list prepared under section 4, clause (b), as such officer or person may require; and all able-bodied persons called upon by the headman of their village-tract shall be bound to assist in the work by labouring thereon as such officer or person directs;

(b) every owner or occupier of immoveable property situated in the neighbourhood of such embankment (whether such owner or occupier resides in the neighbourhood of such embankment or not) shall, if required so to do by such officer or by any person authorized by such officer in this behalf, be bound to assist in the work by labouring thereon himself as such officer or person so authorized directs, or by furnishing a labourer as his substitute so to labour thereon;

(c) all persons so assisting or called on to assist in the work shall be subject to the orders of the Embankment-officer in respect of such work;

(d) the Embankment-officer or any person authorized by him in this behalf may enter into and upon any immoveable property in the neighbourhood of such embankment, and take possession of, appropriate and remove any trees or bamboos, whether standing or not, and any timber, mats, ropes, soil or other materials found in or upon such property, and any boats, carts and oxen found on or about the same, and use the same for the purposes of such work.

6. All persons labouring, or detained for the purpose of labouring, in compliance with a requisition made under section 5, or whose materials may be taken or means of transport used under that section, shall, as soon as may be reasonably practicable, be paid by the Embankment-officer for their labour and detention, or for such materials or for the hire of such means of transport (as the case may be), at a rate not being less than the highest market-rates for similar labour, materials or hire of means of transport for the time being prevailing in the neighbourhood.

Any dispute arising between an Embankment-officer and any person as to the amount to be paid to such person under this section may be referred by either party to the Deputy Commissioner, whose decision thereon shall be final.

7. Whenever, from the removal of any trees, bamboos or other materials or from the use of any means of transport under section 5, any damage, above the price or hire payable under section 6 for such materials or means of transport, results directly to any person, the Embankment-officer shall pay to such person such sum as may be agreed upon as compensation for such damage. In case of dispute as to the amount so to be paid, either party may refer such dispute to the Deputy Commissioner, whose decision thereon shall be final.

8. Any person who:

(a) being a headman liable to furnish labourers under section 5 fails, without reasonable cause, to furnish or assist in furnishing the labourers required of him; or

(b) being a person liable to assist in any work under section 5, clause (a), refuses or neglects, without reasonable cause, so to assist; or

(c) being an owner or occupier of immoveable property liable under section 5, clause (b), to assist or furnish a hired labourer as his substitute, refuses or neglects. without reasonable cause, to assist or furnish a hired labourer as his substitute, shall be liable, on conviction before a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment for a term not exceeding one month, or to both.

9. (1) Where an Embankment-officer has been appointed for any embankment, whoever, without the permission of such officer, does any of the following acts:-

(a) damages such embankment by excavation, by dragging any boat, tree, log or-bamboos on or across it or by any other means;

(b) interferes with any work subsidiary to such embankment so as to damage, destroy, remove or render less useful any such work;

(c) erects any structure, building or machine or lays any pipe line on such embankment;

(d) grazes any cattle or allows any cattle under his charge (or of which he is the owner) to trespass on such embankment;

(e) cuts or roots out any tree, shrub or grass growing on such embankment;

(f) obstructs any drain or sluice connected with such embankment ; shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to two hundred rupees, or with both.

(2) Where an Embankment-officer has been appointed for any embankment, any person who, without the permission in writing of such officer:

(a) enters into possession of any land forming part of such embankment, except under a lease or licence; or

(b) remains in possession of such land after any such lease or licence has been cancelled or has expired, or as otherwise become void, and possession has been demanded, shall be liable to be summarily evicted there from.

9A. (1) Any person who causes any vehicle to pass on or across any embankment, contrary to any order made in this respect by the Deputy Commissioner, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

(2) Any such order may require a fee or fees to be paid as a condition precedent to the use of an embankment for vehicular traffic.

10. (1) Any person who, without the permission of the Deputy Commissioner, constructs, maintains, repairs or adds to any dyke, embankment or bund (other than a kazin) within the limits of any local area to which this sub-section may from time to time be applied by public notice by the President of the Union shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

(2) If any question arises whether a specified erection is a kazin, the decision of the Deputy Commissioner shall be final.

11.(1) The Deputy Commissioner may by notice require any person who constructs, maintains, repairs or adds to a dyke, embankment or bund in contravention of the provisions of section 10, sub-section (1), to remove the same within a time to be specified in the notice.

(2) If any dyke, embankment or bund of which the removal has been required by notice under sub-section (1) is not removed within the time specified in the notice, the Deputy Commissioner may cause the same to be removed.

(3) The cost of the removal of any dyke, embankment or bund removed under the provisions of sub-section (2) shall be recoverable as an arrear of revenue either from the person who constructed, maintained, repaired or added to the dyke, embankment or bund, or from the owner or occupier of the land on which it was situated, or jointly and severally from both such persons, as the Deputy Commissioner may determine.

12. Every Embankment-officer and every person authorized by an Embankment-officer to act under section 5 shall be deemed to be a "public servant" within the meaning of the Penal Code.

12A. Any person in charge of or employed upon any embankment may remove from the lands or buildings belonging thereto, or may arrest without a warrant and take forthwith before a Magistrate or to the nearest police-station to be dealt with according to law, any person, who within his view, commits any of the offences mentioned in clauses (a), (b) and (c) of sub-section (1) of section 9.

13. (1) The President of the Union may make rules to regulate the following matters:-

(a) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;

(b) the amount and manner of payment of fees for the use of embankments under section 9A, sub-section (2);

(c) the manner in which any order or public notice issued under the provisions of this Act shall be published;

(d) the construction and maintenance of kazis;

(e) for the temporary occupation of embankment lands and for the eviction of persons in unauthorized occupation of such lands; and

(f) generally to carry out the provisions of this Act.

(2) The President of the Union may, in making any rule under this section, attach to the breach of it, in addition to any other consequences that, would ensue from such breach, a punishment, on conviction before a Magistrate, not exceeding six months' imprisonment, or two hundred rupees fine, or both.

14. All rules made by the President of the Union under this Act shall be published in the Gazette, and shall thereupon have the same effect as if enacted by this Act.