

# THE MADRAS CANALS AND PUBLIC FERRIES ACT

(II of 1890)

Amended by Act 16 of 2000

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*An Act to make better provision for the establishment of Canals and Public Ferries in the \*[Presidency of Madras] and for the management thereof*

**Preamble:**-- WHEREAS it is expedient to make better provision for the establishment of Canals and Public Ferries in the \*[Presidency of Madras] and for the management thereof; it is enacted as follows:--

**1. Short title and local extent.**-- This Act may be called the <sup>1</sup>(Madras) Canals and Public Ferries Act, 1890.

It extends to the whole of the \*[Presidency of Madras.]

**2. Repeal rep., by the repealing and amending Act: 1901 (Central Act XI of 1901)**

**3. Definitions.**--In this Act, "Vessel" includes any ship, barge, boat, raft, timber, bamboos, or floating materials, propelled in any manner;

"channel" includes any waterway, whether natural or artificial;

"line of navigation" means any navigable channel, or series of connected navigable channels;

"canal" means a line of navigation, declared to be subject to the provisions of this Act;

"ferry" means a place at which goods, animals or passengers are conveyed across a channel by means of vessels;

<sup>16</sup>[ "Municipality" means a town Panchayat, municipal council or a municipal corporation constituted under section 4 of the Kerala Municipality Act, 1994 (20 of 1994):

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Received the assent of the Governor on the 1<sup>st</sup> April, 1890 and of the Governor General on the 9<sup>th</sup> May, 1890.

Brought into force on 1-8-1890 See Fort St. George Gazette 1890 Part I Page 529.

1.Â Inserted by Act XIV of 1951.

2.Â Substituted for 'this Act' by XX of 1941.

(For statement of Objects and Reasons See Fort. St. George Gazette supplement dated 3-12-1889.)

\*Adapted by Kerala Adaptation of Laws Order 1956. Read as Malabar District.

16[ Inserted by Act 16 of 2000.

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â€œPanchayatâ€ means a village Panchayat constituted under section 4 of the Kerala Panchayat Raj Act, 1994 (13 of 1994)â€]

"public ferry" means a ferry declared to be subject to the provisions of 2(Sections 9 to 18 of this Act).

**4.Power to apply Act to any line of navigation:--**The<sup>1</sup>(State Government) may, by notification in the 2(Official Gazette), declare any line of navigation to be subject to the<sup>2</sup> provisions of India Act from a date to be named in such notification and may in like manner cancel or modify any such notification.

**4[5. Vessels to be registered or licensed as directed by Government:--**  
3[All vessels using a canal shall be either licensed or registered as the  
1[State Government may direct:]

**6.Â Power to fix fees and rates to toll and to establish toll stations:--**  
The [State Government]may from time to time--

(a)Â fix rates of fees payable for the licensing or registration of vessels;

(b)Â establish stations at which tolls shall be levied on vessel passing along a canal or on passengers, vehicles, animals or goods landed therefrom, and fix the rates of such tolls ;

(c)Â fix fees for the use of public landing-places, wharves ,piers, jetties, docks, basins, lie-byes, sidings, sheds or ware-houses provided for the accommodations of vessels using a canal or of goods or passengers carried or to be carried thereon and from demurrage on vessels or goods detained therein.

A notification of such tolls or fees under clauses (b) and (c) of this section shall be exhibited to public view in English and in Vernacular language of the district at the places where such tolls or fees are leviable.

<sup>4</sup>[5(Provided that the<sup>2</sup>[ State Government] may exempt from the operation of this section all or any vessels or classes of vessels using a canal or portion of a canal]

**6. <sup>16</sup>[Power of a Municipality or a Panchayat to fix fees and rates of toll and to establish toll stations.â€œ”**

(1), The Panchayat or Municipality may from time to timeâ€œ”

(a)â€œ fix rates of fees payable for the licensing or registration of vessels;

(b)â€œ with the prior permission of the Government establish stations at which tolls shall be levied on vessels passing along a canal or on passengers, vehicles, animals or goods landed therefrom, and fix the rates of such tolls;

(c)â€œ fix fees for the use of public landing places, wharves, piers, jetties, docks, basins, lie-byes, sidings, sheds or warehouses, which are owned by them and provided for the accommodation of vessels using a canal or of goods or passengers carried or to be carried thereon and for demurrage on vessels or goods detained therein.

(2)â€œ An order of such tolls or fees under clause (b) and (c) of subsection (1) shall be exhibited to public view in English and in the Vernacular language of the district at the places where such tolls or fees are leviable.

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1.â€œ The word 'State' was substituted for the word 'provincial' by the Adaptation Order, 1950.

2.â€œ Substituted for 'Fort St. George Gazette' by Adaptation Order, 1937

3.â€œ Substituted by Act 11 of 1895.

4.â€œ Added by Act V of 1914.

16. Substituted Vide Act 16 of 2000.

**6A. *Transfer of existing ferries to Municipalities and Panchayats.*** "All the existing ferries of the Government shall by virtue of this section be transferred to the Municipality or the Village Panchayat as the case maybe, for management.]

7. Power of Persons duly authorised to impose punishment for breach of condition of license and to deal with any obstructions or with navigation in contravention of Act. "Any person duly empowered by 1[the State Government] in this behalf may--

(i) Suspend or cancel the license or registration of any vessel in case of breach of any conditions thereof, or in lieu of such suspension or cancellation or of prosecution may recover from the person in charge of the vessel a penalty not exceeding five rupees for each such breach

(ii) remove from the canal any vessel which may be sunk or abandoned therein, and may recover any expense incurred in so doing by the sale of the vessel; a vessel left for more than three days without a competent person in charge shall be held to be abandoned ;

(iii) in case of emergency remove any other obstruction, or contrivance for fishing, or other thing which is an impediment to navigation, or in other cases serve notice upon the owner, if any, to remove any such thing within a reasonable time to be stated in the notice, failing which he may remove it himself. Expenses incurred under this clause shall be recoverable from the owner; provided always that, in cases of interference with private rights reasonable compensation shall be payable;

(iv) Prohibit the construction of any contrivance for fishing or for any other purpose in the canal or any erection therein or on a tow-path or other land appurtenant thereto;

(v) Stop any vessel navigating the canal in contravention of any of the provisions of this Act or of any rule made or any condition of license or registration prescribed thereunder, and may detain it until the same is complied with or until penalty has been paid or recovered under clause (i) of this section or until the offence, if any, has been inquired into and disposed of.

Power under this section may be conferred either by name or in virtue of an office.

**7-A) Power to declare that ferries not being public ferries shall be subject to rules for securing the safety of passengers:--**

(1) The State Government may, by notification in the [\*Fort St. George Gazette,] declare that any ferry, shall be subject to any rules made by them under this section for the purposes of securing the safety of passengers conveyed across the ferry.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for.--

(i) the types of vessels that may be used for conveying passengers across the ferry; and

(ii) the number of passengers that may be so conveyed on vessels of each such type.

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1 Added by Act XX of 1941.

Read as Kerala Government Gazette. K.A.L.O. 1956.

**8. Power to apply Act to any ferry and define limits ferry:**--The State Government may, by notification in the Official Gazette, declare any ferry to be subject to the provisions of 1 (Sections 9 to 18 of this Act) from a date to be named in such notification, and may define the limits of such ferry. The State Government may, in like manner, cancel or modify any such notification.

**9. Upon Such application existing right of ferry to cease:**--From such date all previously existing rights of ferry within the limits defined in the notification shall cease and determine and it shall be unlawful for any person not duly authorised to convey goods, animals or passengers by means of vessels accrued a channel within such limits while such notification is in force

**Proviso:**--Provided that, when rights of ferry are extinguished under this section compensation shall be payable for such extinction and shall be assessed as near as may be under any law for the time being in force relating to the acquisition of land for public purposes.

**<sup>16A</sup>[10. Power of Municipality of Panchayat to provide for management of ferries:**--

(1) A Municipality or Panchayat may--

(a) Provide for the management of any public ferry,

(b) Authorise any person to convey passenger animals, vehicles or goods across a channel by means of vessels any public ferry, or

(2) All vessels used by a person authorized under clause (b) of sub-section [1] shall be licensed and the Municipality or the Panchayat as the case may be may fix the fees payable for such license.

(3) In the cases referred to in clauses [a] and [b] of sub-section (1), the Municipality or Panchayat may levy charges at such rates as they may fix upon passengers, animals, vehicles and goods convey across the ferry.

(4) A notice in English and Malayalam specifying the charges levyable at a ferry under sub-section (3) shall be exhibited to public view on each side of the ferry.]

<sup>16B</sup>[10A. Power to take action for default by a Panchayat or a Municipality. (1) If, at any time, it appears to the Government that a Panchayat or a Municipality has made default in performing any duty imposed by or under this Act or in carrying out any orders lawfully issued by the Government, the Government may, by order in writing, fix a period for the performance of such duty, or the carrying out of such order.

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16A Substituted Vide Act 16 of 2000.

16B. Inserted Vide Act 16 of 2000.

(2) If such duty is not performed or such order is not carried out within the period fixed under sub-section (1), the Government may, after giving a reasonable opportunity to the Panchayat or municipality, as the case may be, to explain why further action under this section may not be pursued, appoint any officer or authority to perform the duty or to carry out the functions and may direct that the expenses incurred therefore shall be paid from the fund of the Panchayat or the Municipality, as the case may be, within such time as may be specified by the Government.]

Levy tools upon passengers, animals, vehicles and goods conveyed across the ferry at such rates as uit may, subject to the control of the State Government, fix. 1[The net revenues derived from the management of the ferry shall be distributed between the

authorities (including the state Government) maintaining approach roads at either end of the ferry, in such proportions and subject to such conditions as the State Government may from time to time, by notification, direct.]

**11. Power to assign management of canal to district Board or Municipal Council:**--The management of any canal (2) may by order of the State Government, be assigned to a local board or municipal council (3) which shall exercise all the powers stated in Section 7, and may, subject to the control of the State Government, confer such powers on its servants. All persons duly empowered under section 7 shall be deemed to be public servants within the meaning of the Indian Penal Code.

**12. Power to appoint persons to collect tolls or fees and to lease out Collection thereof.**--The State Government or the managing authority shall appoint persons to collect tolls or fees payable under this Act. The collection of such tolls or fees other than license fees may, under such conditions as the State Government may from time to time prescribe, be leased out and in such case the lessee and his agents and servants shall be deemed to be so appointed.

1. Substituted by Act 1 of 1956 (deemed to have come into force from 6-11-1947).

2. 'Or public ferry' omitted by Act VII of 1939.

6. Omitted by Adaptation Order, 1939

or anything in the possession of a passenger or person who is liable to such toll,

**13. Procedure in case of non-payment of toll, etc: on demand.**--In case any tolls, fees other than license-fees or penalties payable under this Act are not paid when demanded by a person duly appointed or empowered to collect or impose the same, such person may seize any vessel, goods, vehicles or animals in respect of which such toll, fee or penalty is payable

Fee, or penalty, and any person empowered by the State Government or the managing authority in this behalf may sell the same by auction after fifteen days' public notice of the sale if such toll, fee or penalty is still unpaid. After the deduction of such toll, fee or penalty and of the expenses of sale, the surplus proceeds, if any shall be paid to the person from whose possession the things sold were taken.

**14. What payments may be recovered as arrears of revenue.**--All Canals, and ferry rents and expenses incurred under Section 7 may be recovered by the Collector of the district in like manner as if they were arrears of land revenue

1 Provided that any ferry rent due to a local board or municipal council shall be recovered as if the same were a tax due to the local board or municipal council.

**15. Form etc of licenses and registration.**--All licenses granted and registrations effected under this Act shall be in such form, shall be valid for a voyage or for such time, and shall contain, or be subject to, such conditions as the state Government may from time to time direct.

**16. Power to make rules.**--The State Government may make rules in respect of any canal or public ferry for all or any of the following purposes:--

(i) declaring the powers to be exercised by any person employed under this Act;

(ii) Providing for the grant of licenses, for the inspection of licensed vessels, and for their maintenance in good conditions;

(iii) Regulating the dimensions and free board of vessels using any canal or public ferry, the equipment of the same, and the number of passengers and the nature and quantity of cargo to be carried therein ;

(iv) Regulating the speed at which vessels shall be moved, the passing of vessel, the lights to be exhibited by vessels moving or at anchor, the working of locks, the mooring of vessels and the use of landing-places, wharves, piers, jetties docks, basins lie-byes, sidings, sheds or warehouses;

(v) The disposal of vessels or other things confiscated or seized under this Act;

(vi) for the conveyance of passengers; and generally for the purposes of this Act:

**17. Penalty for breach of rule:**--Any person who breaks any rule made under this Act shall be punishable on conviction by a Criminal Court with fine not exceeding fifty rupees in case of a single offence, and, in case of a continuing offence, not exceeding ten rupees for every day during which such offence continues. If the offence is such as to endanger

human life, the punishment may extend to imprisonment of either description for one year or to fine of five hundred rupees, or both.

**18.Â Penalty for navigating a canal or establishing or working a ferry in contravention of Section 5, 1[7A] Or 9:**--Any person navigating a canal or establishing or working a ferry in contravention of section 5, 1(7A) or 9 of this Act shall be liable on conviction before a Criminal Court to fine not exceeding five hundred rupees.

1 Added by Act VII of 1939

**19.Â Penalty for evasion of toll for fee and or unauthorized levy of toll etc:**--Any person who refuses or evades payment of any toll or fee payable under this Act, or without due authority levies any toll or fee under colour of this Act, or being empowered to collect tolls or fees under this Act, collects or receives any sum in excess of the lawful due, shall on conviction by a Criminal Court be punishable with imprisonment of either description not exceeding one hundred rupees, or with both.

**20. Power of court to order confiscation:**--On conviction had of any offence under this Act, the Court may order that any vessel or other thing used in the commission of such offence shall be confiscated.

2[21. The State Government may delegated all or any their powers under Sections 5,10,11,12,12 and 15, to any officer not below the rank of District Collectors or Superintending Engineers.]

22<sup>16</sup>[Omitted]

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1.Â Added by Act XX of 1941.

2.Â Added by Act VIII of 1934.

16. omitted by Act 16 of 2000.