

THE BOUNDARIES ACT.

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THE BOUNDARIES ACT.

[INDIA ACT V, 1880.] (20th February, 1880.)

CHAPTER I.

PRELIMINARY.

- 1. * * * *

1A. In this Act,—

“survey-mark” means any pillar, pipe, post or other mark erected or placed above or below the surface by or by order of any officer appointed by the President of the Union to make a survey of any land on or within the boundaries of such land for the purpose of indicating survey points or lines.

Definition of “survey-mark.”

2. The President of the Union may from time to time appoint persons, by name or by virtue of their office, to be Demarcation-officers and Boundary-officers and may suspend or remove any person so appointed.

Power to appoint Demarcation and Boundary-officers; functions of such officers.

Every person so appointed shall, subject to the control of the President of the Union and of any superior officer appointed by him in this behalf, exercise and perform, within such local limits as the President of the Union may from time to time direct, the powers conferred, and the duties imposed, by this Act or the rules made hereunder on such officers respectively.

Orders
passed to be
based on
occupation.

2A. The enquiries made, the boundaries demarcated, and the orders passed by any Demarcation-officer or Boundary-officer appointed under this Act shall be based upon the actual possession of land without reference to the claim of any person to a right to possess such land :

Provided that, if in the course of an enquiry the Demarcation-officer is unable to satisfy himself which party is in possession, he shall refer the case for the orders of the Boundary-officer before marking out the boundaries of the land. If, on the report of the Demarcation-officer or in the course of an enquiry made by himself, the Boundary-officer is unable to satisfy himself as to which party is in possession, or if it is shown that possession has been obtained by wrongful dispossession of the lawful occupants of the land within a period of three months previous to the commencement of the enquiry, the Boundary-officer—

- (a) in the first case, shall ascertain by summary enquiry who is the person best entitled to the land and shall put such person in possession ;
- (b) in the second case, shall put the person so dispossessed in possession ; and shall then fix the boundary accordingly.

CHAPTER II.

DEMARICATION OF BOUNDARIES.

A.—Proceedings of Demarcation-officer.

Power to
direct demar-
cation of
boundaries.

3. The President of the Union may, whenever he thinks fit, by a notification in the Gazette direct that the boundaries of any land shall be demarcated by a Demarcation-officer.

Power to
enter on land
to effect
demarcation.

4. On the publication of any such notification, a Demarcation-officer appointed by the President of the Union in this behalf may enter upon the land specified therein, and make all enquiries and do all other things necessary for demarcating the boundaries of the said land.

Publication
of general
notice.

5. The Demarcation-officer shall cause to be published a general notice addressed to all persons owning, occupying or otherwise interested in the said land and the land marching therewith, and to all persons employed on or connected with the management of such land, calling upon them to attend either personally or by agent before him, at such places and at such times as may be stated in such notice, for the purpose of pointing out the boundaries and of rendering such aid as may be necessary in setting up or repairing the boundary-marks, and of affording such other assistance and information as may be needed for the purposes of the demarcation.

The persons to whom such notice is addressed shall not be legally bound to attend.

6. The Demarcation-officer may also cause a special notice to be served on any of the persons mentioned in section 5 requiring such person to attend, personally or by agent, before him on or before a specified date, at such places and for such of the purposes aforesaid as may be stated in such notice ; and every person upon whom such special notice may be served shall be legally bound to attend as required by the notice, and so far as he may be able, to do any of the things mentioned therein.

Power to issue special notice to procure attendance.

7. The Demarcation-officer may cause a special notice to be served on any owner or occupier of the said land requiring such owner or occupier to clear any boundary or other line which it may be necessary to clear for the purposes of the demarcation of such land, by cutting down and removing any trees, jungle, fences or standing crops, or to provide labour by furnishing flag-holders, or otherwise to assist in the demarcation of such land ; and, if it is necessary to employ hired labour for these or other similar objects incidental to the demarcation, the Demarcation-officer may assess and recover from such owner or occupier the cost of such labour.

Clearing of boundary-lines.

8. If any demand for compensation is made in respect of the clearance of any line in accordance with the requisition under section 7, the Demarcation-officer shall determine and record the value of any trees, jungle, fences or standing crops which may have been cut down or removed, and shall pay or tender to the owners thereof the amount of compensation which, in his opinion, should be allowed therefor.

Compensation for injury done by clearance.

Any dispute arising concerning the sufficiency of the amount so paid or tendered shall be determined by the Deputy Commissioner upon application made to him for that purpose by either of the disputing parties.

9. The Demarcation-officer may issue a special notice calling upon any person who he has reason to believe can give any information respecting the boundaries of the land, or in whose possession or power any document relating to such boundaries is alleged to be, to attend before him and give such information or produce such document, on a date and at a place to be mentioned in the notice.

Power to summon person to give information or produce document.

Every person on whom any such notice is served shall be legally bound to attend and to give such information or to produce such document as required by the notice.

10. The Demarcation-officer shall, after making such enquiry as he thinks fit, mark out the boundaries of the land, and may cause boundary-marks, of such materials, in such number, and in such manner, as he thinks fit, to be erected by the owners or occupiers of the land, or may erect such marks and charge the cost of such erection to such owners or occupiers, and shall forward a report of his proceedings to the Boundary-officer :

Demarcation-officer to mark out boundaries, and submit report to Boundary-officer.

Provided that, at any time before forwarding his report to the Boundary-officer, the Demarcation-officer may, for any sufficient reason to be stated in such report, alter any boundary marked out by him.

When Demarcation-officer may alter demarcation

B.—Proceedings of Boundary-officers

General notice to persons affected.

11. The Boundary-officer shall, on receipt of the report of the Demarcation-officer, cause a general notice to be published, informing all persons concerned that such report is open to inspection, and requiring any person who may have any objections to make thereto to submit a written statement of such objections within one month from the date of the publication of such notice.

Special notice to persons likely to object.

Whenever the Boundary-officer has reason to believe that any person interested is likely to object to any boundary as laid down in such report, he shall cause a special notice to be served on such person requiring him to submit within the said period of one month, a written statement of his objection.

Statements of objections.

No person shall be entitled as of right to submit any statement of objection after the expiration of the said period of one month ; but it shall be in the discretion of the Boundary-officer to admit any such statement after the expiration of such period and before the order next hereinafter mentioned has been made.

Order of Boundary-officer.

12. When the said period of one month has expired and the objections (if any) made within it or subsequently admitted by the Boundary-officer have been enquired into by him, and any further enquiry which he may deem necessary has been made by him, the Boundary-officer shall pass such order as he thinks fit, confirming or modifying the boundaries as determined by the Demarcation-officer.

If any objection seems to him not to be well-founded, the Boundary-officer may direct that all expenses of the enquiry which have arisen from such objection shall be recovered from the person who made the same.

Objections subsequently made how dealt with.

13. When any person, within sixty days from the date of the order passed under section 12, makes any objection to the correctness of the demarcation proceedings, the Boundary-officer may, in his discretion, either refuse to enquire into such objection, or may require the person making the same to deposit, within a reasonable time, the estimated cost of any further enquiry which it may be necessary to make in respect thereof.

Boundary-officer to make further inquiry.

14. If the costs of such further enquiry are deposited, the Boundary-officer shall, after making such inquiry, pass an order rejecting such objection or admitting the same and amending the order passed under section 12.

If, on such enquiry, the objection seems to the Boundary-officer not to be well-founded, he may pass such order as he thinks fit in respect of the recovery, from the person making the objection, of any sum expended on the enquiry in excess of the sum deposited, and of any necessary expenses incurred by any other person on account of such inquiry.

No person making an objection under section 13 shall, unless the Boundary-officer specially so directs, recover any portion of the amount deposited by him under section 13.

15 For the purposes of any enquiry under this Act, the Boundary-officer shall, in addition to the powers conferred specially by this Act, have all the powers of a Demarcation-officer and also power to summon and enforce the attendance of witnesses and compel the production of documents, so far as may be, by the same means and in the same manner as is provided in the case of a civil Court by the Code of Civil Procedure.

Power to enforce attendance of witnesses, etc.

16. The Boundary-officer, whenever he thinks fit, may, with the consent of the parties concerned, refer to arbitration any dispute as to a boundary. The procedure laid down in [the Arbitration Act, 1944,]¹ shall apply (so far as may be) to such references.

Power to refer dispute to arbitration.

17. The order passed by the Boundary-officer under section 12, or, when such order is amended under section 14, such amended order shall, unless and until it be reversed or modified in manner hereinafter provided, be conclusive as to the fact of actual possession but shall not decide the claim of any person to a right to possess land.

Effect of orders of Boundary-officer.

C.—Appeals from Orders of Boundary-officer.

18. An appeal shall lie to the Commissioner of the division from every order passed by a Boundary-officer under section 12, section 13 or section 14, and the order of the Commissioner shall be final and conclusive as to the fact of actual possession but shall not decide the claim of any person to a right to possess land.

Orders appealable to Commissioner. Effect of Commissioner's order.

19. * * * *

20. (1) The period of limitation of an appeal under section 18 shall be sixty days.

Limitation of appeals.

(2) In computing such period of sixty days and in all respects not herein specified the limitation of such a period shall be governed by the provisions of the Limitation Act.

21. The Commissioner shall in hearing and determining appeals under section 18 have as nearly as may be the powers of an appellate Court under the Code of Civil Procedure.

Commissioner's power in appeals.

B.—Boundary-Marks.

22. Whenever an order determining a boundary has become final, the Boundary-officer shall, unless permanent boundary-marks of a suitable description have already been erected along such boundary, cause to be erected permanent boundary-marks, of such materials, in such number, and in such manner, as he may consider sufficient to distinguish such boundary.

When permanent boundary-marks are to be erected.

An order determining a boundary becomes final for the purposes of this section when it is not open to appeal.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

Apportionment of expense of erection of marks.

23. All expenses incurred by the Boundary-officer in erecting such boundary-marks for any land shall be apportioned amongst the owners or occupiers of such land, in such proportions as the Boundary-officer may think fit.

Notice to owners to pay share of expense.

24. When the expenses have been apportioned among such owners or occupiers, the Boundary-officer shall cause a notice to be served on each of them, specifying the amount payable by him in respect of such expenses, and requiring him to pay such amount to the Boundary-officer within one month from the service of such notice.

Power to place marks under charge of owners and occupiers.

25. The boundary-officer may further cause a notice to be served on any owner or occupier, placing under his charge any boundary-marks erected on the boundary of his land, whether by order of such officer or otherwise.

Duty to preserve boundary-marks.
Duty to give notice of any injury occurring to them.

Every owner or occupier shall preserve such boundary-marks as may be placed under his charge under this section, and shall give immediate notice to the nearest Magistrate or the officer in charge of the nearest police-station if any such marks are injured, destroyed or removed, or require repairs.

Power to re-erect and repair boundary-marks.

26. Whenever a Magistrate of the first or second class becomes aware that any mark erected under this Act within the local limits of his jurisdiction has been injured, destroyed or removed, or requires repairs, such Magistrate may cause such mark to be re-erected, restored or repaired, and may recover any expenses incurred in respect of such re-erection, restoration or repair from the owner or occupier who is bound under section 25 to preserve such mark.

27. * * * *

CHAPTER III.

MISCELLANEOUS.

Survey-officer.

28. When any officer is appointed by the Government to make a survey of any land, the Financial Commissioner, subject to the control of the President of the Union, may invest such officer, for the purposes of such survey, with all or any of the powers conferred on Demarcation-officers by sections 4 to 9 (both inclusive), and also with power to cause any boundary or survey or other marks to be erected, or placed by the owners or occupiers of any land, or to erect or place such marks and to charge the cost of such erection or placing to such owners or occupiers.

All the provisions of sections 23 to 26 (both inclusive) shall apply to such marks and the officer invested with such powers shall have all the powers of a Boundary-officer under the said sections.

28A. It shall be the duty of every village-headman and *thugyi* and of every owner or occupier of land,—

Duties of village officers and of owners and occupiers of lands.

- (a) so far as he lawfully can, to prevent the destruction, injury or alteration of any boundary or survey-mark within the local limits of his jurisdiction or on or within the land owned or occupied by him, as the case may be ;
- (b) whenever he becomes aware that any such boundary or survey-mark has been destroyed, injured or altered, to report immediately to the officer in charge of the nearest police-station or to the nearest Magistrate such destruction, injury or alteration.

29. If any owner or occupier of any land, or any other person, being ordered in accordance with the provisions herein contained to perform any act, fails to perform such act within a reasonable time, the officer who gave the order may, after giving notice to such owner, occupier or other person of his intention so to do, cause the act to be performed ; and the expenses incurred in such performance shall be payable by such owner, occupier or other person.

Power to perform order under Act at expense of person disobeying it.

30. Whoever—

- (a) knowingly fails to discharge any duty imposed on him by this Act or any rule made thereunder, or
- (b) being legally bound to comply with any lawful order under this Act or with the requisition contained in any special notice served upon him under this Act, refuses or neglects to comply therewith,

Penalty for failure to discharge duty imposed or for refusing or neglecting to comply with order or notice under Act.

shall be punished with fine which may extend to fifty rupees.

31. Every amount due under the provisions of this Act may be recovered as if the same were an arrear of land-revenue.

Recovery of amounts due under Act.

32. The Financial Commissioner, subject to the control of the President of the Union, may from time to time make rules consistent with this Act—

Power to make subsidiary rules.

- (a) for the collection and record of any information in respect of any land ;
- (b) prescribing and limiting the powers and duties of officers conducting proceedings under this Act ;
- (c) regulating the delegation by such officers to subordinate officers of the powers and duties conferred and imposed on them respectively by this Act or the rules made thereunder ;
- (d) for the proper performance of all things to be done, and for the regulation of all proceedings to be taken, under this Act ;
- (e) for the publication, issue and service of all notices, whether general or special, to be published, issued or served under this Act, and
- (f) for carrying out generally the purposes of this Act.

All such rules shall be published in the Gazette, and shall thereupon have the force of law.

Mode of publication.