

2[THE BENGAL ALLUVION AND DILUVION REGULATION, 1825]

[25 th May, 1825.]

A Regulation for declaring the Rules to be observed in determining Claims to land gained by Alluvion, or by Dereliction of a River or the Sea.

Preamble	<p>1. In consequence of the frequent changes which take place in the channel of the principal rivers that intersect the Provinces immediately subject to the Presidency of Fort Willima, and the Shifting of the sands which lie in the beds of those rivers, chars or small islands are often thrown up by alluvion in the midst of the stream or near one of the banks, and large portions of land are carried away by an encroachment of the river on one side, whilst accessions of land are at the same time, or in subsequent years, gained by dereliction of the water on the opposite side; similar instances of alluvion, encroachment and dereliction also sometimes occur on the sea-coast which borders the southern and south –eastern limits of Bengal.</p>
	<p>The land gained from the river or sea by the means abovementioned are a frequent source of contention and affray, and although the law and custom of the country have established rules applicable to such cases, these rules not being generally known, the Courts of Justice have some times found it difficulty to determine the rights of litigant parties claiming chars or other lands gained in the manner above described.</p>
	<p>The Court of Sadr Diwani Adalat, with a view to ascertain the legal provisions of the Muhammadan and Hindu laws on the subject called for reports from their Law – officers, of each persuasion, and on consideration of the repots furnished by the Law – officers in consequences, as well as of the decisions which have been passed by the Court of Sadr Diwani Adalat in cases brought before them in appeal which involved the rights of claimants to lands gained by alluvion, or by dereliction of rivers or the sea, the Governor-General in Council has deemed it proper to enact the following rules for the general information of individuals well as for the guidance of the Courts of Judicature’ to be in force, as soon as promulgated, throughout the whole of the Provinces subject to the Presidency of Fort William.</p>

1. This Regulation has been declared to be in force in the N.W.F.P.S. 4 of the North West Frontier Province law and Justice Regulation, 1901 (VII of 1901)
2. Short title, "The Bengal Alluvion and Diluvion Regulation 1825," See the Amending Act, 1897 (V of 1897), Pakistan code, Vol, IV.

1825 Ben. Reg. XI

ALLUVION AND DILUVION.

<p>Claims and disputes as to alluvial lands to be decided by usage when clearly recognised and established.</p>	<p>2. When Ever and clear and definite usage of shikast paiwest, respecting the disjunctions and junction of land by the encroachment or recess of a river, may have been immemorially established, for determining the rights of the proprietors of two or more contiguous estates divided by a river (Such as that the main channel of the river dividing the estate shall be the constant boundary between them, whatever changes may take place in the course of the river, by encroachment on one side and accession on the other), the usage so established shall [unless and until a boundary is fixed under the provisions of sections 101-A of the Punjab Land Revenue Act, 1887, as amended by the Punjab Boundaries Act, 1899] govern the decision of all claims and disputes relative to alluvial land between the parties whose estates may be liable to such usage. XVII of Punjab 1899.</p>
<p>Where no usage wstablished, claims how decided.</p>	<p>3. Where [no boundary has been under the provisions of section 101-A of the Punjab Land Revenue Act, 1887, as amended by the Punjab Riverain Boundaries Act, 1899, and] there may be no local usage of the nature referred to in the preceding sections, the general rules declared in the following section shall be applied to the determination of all claims and disputes relatives to lands gained by alluvion or dereliction either of a river or the sea.</p>
<p>Land gained by gradual accession from recess of river or sea.</p>	<p>4. First. __ When land may be gained by gradual accession, whether from the recess of a river or of the sea, it shall be considered an increment to the tenure of the person to whose land or estate it is thus annexed, whether such land or estate be held immediately from [Crown] by a Zamindar or other superior land holder, or as a subordinate tenure, by any description of under tenant whatever:</p>

Extent of interest in increment of person in possession.	Provided that the increment of land thus obtained shall not entitle the person in possession of the estate or tenure to which the land may be annexed to a right of property or permanent interest therein beyond that possessed by him in the estate or tenure to which the land may be annexed, and shall not in any case be understood to exempt the holder of it from the payment to [Crown] of any assessment for the public revenue to which it may be liable under the provisions of Regulation II, 1819, or of any other regulation in force.
When river by sudden change of course intersects estate.	<i>Second.</i> ___ The above rule shall not be considered applicable to cases in which a river, by a sudden change of its course, may break or may by the violence of stream separate a considerable piece of land from one estate, and join it to another estate without destroying the identity, and preventing the recognition, of the land so removed.

1. Ins. By Punjab Act, I of 1899 s 4 (i)
2. Ins. Ibid, s.4 (2)
3. Subs. By the A.O., 1937 for “Government.”

ALLUVION AND DILUVION.

1825 Ben. Reg. XI

In such cases the land, on being clearly recognized, shall remain the property of its original owner.

Third. ___ When a char or island may be thrown up in a large navigable river (the bed of which is not the property of an individual), or in the sea and the channel of the river or sea between such island and the shore may not be fordable, it shall according to established usage, be at the disposal of [Crown]	Chars or island thrown up in navigable rivers.
But if the channel between such island and the shore be fordable at any season of the year, it shall be considered an accession to the land, tenure or tenures of the person or persons whose estate or estates may be most contiguous to it, subject to the several provisions specified in the first clause of this section, with respect to increment of land by gradual accession.	Property therein when channel fordable.

<p><i>Fourth.</i> ___ In small and shallow rivers, the beds of which with the jalkar right of fishery, may have been heretofore recognizes ad the property of individuals, any sand bank or chars that may be thrown up shall, as hitherto, belong to the proprietor of the bed of the river, subject to the provisions stated in the first clause of the present section.</p>	<p>Sand banks or chars thrown up in small shallow rivers.</p>
<p><i>Fifth.</i> ___ In all other cases, namely, in all cases of claims and disputes respecting land gained by alluvion or by dereliction of a river or the sea, which are not specifically provided for by the rules contained in this Regulation, the Courts of Justice, in deciding upon such claims and disputes, shall be guided by the best evidence they may be able to obtain of established local usage, if there be any applicable to the case, or , if not, by general principles of equity and justice.</p>	<p>Disputes relatives to lands gained by alluvion or by dereliction not provided for by regulation.</p>
<p>5. Nothing in this Regulation shall be construed to justify any encroachments by individuals on the beds of channels of navigable river, or to prevent Zila, Magistrates, or any other officer of [Grown] who may be duly empowered for that purpose from removing obstacles which appear to interfere with the safe and customary navigation of such rivers, or which shall in any respects obstruct the passage of boats by tracking on the banks of such rivers, or otherwise.</p>	<p>Encroachment or beds of navigable rivers and other obstruction.</p>

- Sub by the A.O. 1937, for “Government.”
- The Words “and city” were repealed by the Repealing and Amending Act, 1903 (I of 1908)