

PUNJAB
LAND ADMINISTRATION ACTS

AND

**RULES HAVING THE FORCE OF LAW
THEREUNDER.**

VOLUME I, ACTS.



Lahore :

Printed by the Superintendent, Government Printing, Punjab.
1934.

Price : Rs. 2-8-0 or 3s 9d.

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PREFACE.

UNDER a scheme which was sanctioned by Government in 1899 the books of reference for use by Revenue Officers will, in future, be—

- (1) The Punjab Land Administration Acts and Rules under each.
- (2) The Punjab Land Administration Manual.
- (3) The Punjab Settlement Manual.
- (4) The Standing Orders of the Financial Commissioners.

2. The Punjab Settlement Manual issued originally in 1899 and a revised edition was printed in 1909. A third edition was issued in 1914 and the fourth in 1930. The Punjab Land Administration Manual was issued during 1909 and a revised edition was printed in 1931.

3. The old revenue rules have now been revised, and such of them as were obsolete or need not have the power of law have been cut out. In this connection see Financial Commissioner's Notification No. 61, dated the 18th March 1910. The residue have been printed separately as rules or Government notifications under the Land Revenue or Tenancy Act, respectively, in the volumes of Punjab Land Administration Acts; in which have been included all the Acts of general reference required by Revenue Officers.

4. At the same time the revenue circulars have been overhauled and re-arranged as standing orders of the Financial Commissioners, which now include all the instructions given in the present revenue rules and revenue circulars which do not find a place in the new rules or in the notifications under the Punjab Land Revenue and Tenancy Acts or in the Punjab Settlement and Land Administration Manuals. A standing order on Land Alienation has been added. In the process of re-arrangement it has been found advisable to amend in some instances the previous instructions.

5. A reference table showing where the paragraphs of the Revised Revenue Circulars and each of the old Revenue Rules are now to be found is printed with the Standing Orders of the Financial Commissioners.

6. The Acts are printed as amended up to the end of March 1933. References to amending Acts are given in antique type in the margin except where a footnote is given for greater clearness.

26th April 1933.

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THE SCHEDULE.—ENACTMENTS REPEALED.

ACT No. XVII OF 1887.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor-General on the 23rd
September 1887.)*

As amended by
 ACT XII OF 1891,
 ACT XVII OF 1896,
 PUNJAB ACT I OF 1899,
 PUNJAB ACT II OF 1905,
 ACT IV OF 1907,
 PUNJAB ACT II OF 1912,
 PUNJAB ACT V OF 1912,
 ACT IV OF 1914,
 ACT XXXVIII OF 1920,
 PUNJAB ACT III OF 1928,
 PUNJAB ACT VII OF 1929.

AN ACT TO AMEND AND DECLARE THE LAND-REVENUE
LAW OF THE PUNJAB.

WHEREAS it is expedient to amend and declare the law in force in the Punjab with respect to the making and maintenance of records-of-rights in land, the assessment and collection of land-revenue and other matters relating to land and the liabilities incident thereto; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Punjab Land-Revenue Act, 1887. Title, extent
and com-
mencement.

(2) It extends to the territories for the time being administered by the *Lieutenant-Governor of the Punjab, including the pargana of Spiti, but not so as to affect, otherwise than as expressly provided by this Act, any Regulation in force under the provisions of the Statute 33, Victoria, chapter 3, section 1, in any portion of those territories; and

(3) It shall come into force on such day as the Local Government, with the previous sanction of the Governor-General in Council, may by notification appoint in this behalf.†

*To be construed now as "Governor," see Section 31 of the General Clauses Act, 1897 (X of 1897).

†The Act came into force on 1st November 1887 (Notification No. 727, dated 1st November 1887).

(4) *Repealed by Act XII of 1891.*

Repeal.

2. (1) The enactments mentioned in the schedule are repealed to the extent specified in the third column thereof.

(2) But all rules, appointments, assessments and transfers made, notifications and proclamations issued, authorities and powers conferred, farms and leases granted, records-of-rights and other records framed, revised, or confirmed, rights acquired, liabilities incurred, times and places appointed and other things done, under any of the repealed enactments shall, so far as may be, deemed to have been respectively made, issued, conferred, granted, framed, revised, confirmed, acquired, incurred, appointed and done under this Act.

(3) Any enactment or document referring to any enactment hereby repealed shall be construed as referring to this Act.

Definitions.

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

(1) "estate" means any area—

(a) for which a separate record-of-rights has been made; or

(b) which has been separately assessed to land-revenue, or would have been so assessed if the land-revenue had not been released, compounded for or redeemed; or

(c) which the Local Government may, by general rule or special order, declare to be an estate:

(2) "land-owner" does not include a tenant or an assignee of land-revenue, but does include a person to whom a holding has been transferred, or an estate or holding has been let in farm, under this Act for the recovery of an arrear of land-revenue or of a sum recoverable as such an arrear, and every other person not hereinbefore in this clause mentioned who is in possession of an estate or any share or portion thereof, or in the enjoyment of any part of the profits of an estate:

(3) "holding" means a share or portion of an estate held by one land-owner or jointly by two or more land-owners:

(4) "rent," "tenant," "landlord" and "tenancy" have the meanings, respectively, assigned to those words in the Punjab Tenancy Act, 1887:

XVI of 1887.

(5) "pay," with its grammatical variations and cognate expressions, includes when used with reference to rent, "deliver" and "render," with their grammatical variations and cognate expressions:

(6) "land-revenue" includes assigned land-revenue and any sum payable in respect of land, by way of quit-rent or of commutation for service, to the Government or to a person to whom the Government has assigned the right to receive the payment:

(7) "arrear of land-revenue" means land-revenue which remains unpaid after the date on which it becomes payable:

(8) " defaulter " means a person liable for an arrear of land-revenue, and includes a person who is responsible as surety for the payment of the arrear:

(9) " rates and cesses " means rates and cesses which are primarily payable by land-owners, and includes—

(a) *Repealed by Act XII of 1891.*

XX of 1883,

(b) the local rate, if any, payable under the Punjab District Boards Act, 1883, and any fee leviable under section 33 of that Act from land-owners for the use of or benefits derived from such works as are referred to in section 20, clauses (i) and (j), of that Act;

VIII of 1873.

(c) any annual rate chargeable on owners of lands under section 59 of the Northern India Canal and Drainage Act, 1873*;

(d) the zaidari and village-officers' cesses; and

(e) sums payable on account of village expenses;

(10) " village-cess " includes any cess, contribution or due which is customarily leviable within an estate and is neither a payment for the use of private property or for personal service nor imposed by or under any enactment for the time being in force:

(11) " village-officer " means a chief-headman, headman or patwari:

(12) " Revenue-officer " in any provision of this Act, means a Revenue-officer having authority under this Act to discharge the functions of a Revenue-officer under that provision:

XVIII
1879.

(13) " legal practitioner " means any legal practitioner within of the meaning of the Legal Practitioners Act, 1879, except a mukhtar:

(14) " agricultural year " means the year commencing on the sixteenth day of June, or on such other date as the Local Government may by notification appoint for any local area:

(15) " notification " means a notification published by authority of the Local Government in the official Gazette:

(16) " incumbrance " means a charge upon or claim against land arising out of a private grant or contract:

(17) " survey-mark " includes boundary-mark: and

Punjab Act
III of 1928.

(18) " Net-assets " of an estate or group of estates means the estimated average annual surplus produce of such estate or group of estates remaining after deduction of the ordinary expenses of cultivation as ascertained or estimated.

Explanation.—Ordinary expenses of calculation include payments, if any, which the land-owner customarily bears whether in kind or in cash either in whole or in part in respect of—

(1) water rates,

(2) maintenance of means of irrigation,

*This must not be confounded with owner's rate assessed under section 37 of Act VIII of 1873.

- (3) maintenance of embankments,
- (4) supply of seed,
- (5) supply of manure,
- (6) improved implements of husbandry,
- (7) concessions with regard to fodder,
- (8) special abatements made for fallows or bad harvests,
- (9) cost of collection of rent,
- (10) allowance for shortage in collection of rent,
- (11) interest charges payable in respect of advances made in cash, free of interest, to tenants for the purpose of cultivation,
- (12) wages or customary dues paid to artisans or menials whose products or labour are utilised for the purposes of cultivation and harvesting,

and the share that would be retainable by a tenant if the land were let to a non-occupancy tenant paying rent, whether in cash or in kind, at the normal rate actually prevalent in the estate or group of estates.

(19) "Assessment Circle" means a group of estates which in the opinion of the Financial Commissioner, to be recorded in an order in writing, are sufficiently homogeneous to admit of a common set of rates being used as a general guide in calculating the land revenue to be assessed upon them.

Exclusion of certain land from operation of Act.

4. (1) Except so far as may be necessary for the record, recovery and administration of village-cesses, nothing in this Act applies to land which is occupied as the site of a town or village and is not assessed to land-revenue.

(2) A Revenue-officer may define, for the purposes of this Act the limits of any such land.

Power to vary limits and alter number of tahsils, districts and divisions.

5. The Local Government may by notification vary the limits of the tahsils, districts and divisions into which the territories administered by it are divided, and may by notification alter the number of those tahsils and districts and, with the previous sanction of the Governor-General in Council, the number of those divisions. XXXVIII of 1920.

CHAPTER II.

REVENUE-OFFICERS.

Classes and Powers.

Classes of revenue-officers.

6. (1) There shall be the following classes of Revenue-officers, namely:—

- (a) the Financial Commissioner;
- (b) the Commissioner;
- (c) the Collector;
- (d) the Assistant Collector of the first grade; and
- (e) the Assistant Collector of the second grade.

(2) The Deputy Commissioner of a district shall be the Collector thereof.

(3) The Local Government may appoint any Assistant Commissioner, Extra Assistant Commissioner or Tahsildar to be an Assistant Collector of the first or of the second grade, as it thinks fit, and any Naib-Tahsildar to be an Assistant Collector of the second grade.*

(4) Appointment under sub-section (3) shall be by notification and may be of a person specially by name or by virtue of his office or of more persons than one by any description sufficient for their identification.

(5) Subject to the provisions of this Act, the jurisdiction of the Financial Commissioner extends to the whole of the territories for the time being administered by the Lieutenant-Governor of the Punjab, and of Commissioners and of Collectors and Assistant Collectors to the divisions and districts, respectively, in which they are for the time being employed.

7. (1) There shall be one or more Financial Commissioners, ^{Financial} who shall be appointed, and may be removed, by the Local Govern- ^{Commis-}ment. ^{sioner.}

(2) Where more Financial Commissioners than one have been appointed, the Local Government may make rules as to the distribution among them of business under this or any other Act, and by those rules require any case or class or classes of cases to be considered and disposed of by the Financial Commissioners collectively.

(3) When there is a difference of opinion among the Financial Commissioners as to any decree or order to be made in a case which they are required by rules under the last foregoing sub-section to consider, and dispose of collectively, the following rules shall apply, namely:—

(a) where the case is an appeal or a case on review or revision, it shall be decided in accordance with the opinion of the majority of the Financial Commissioners, or, if there is no such majority which concurs in a decision modifying or reversing the decree or order under appeal, review or revision, that decree or order shall be affirmed; and

(b) where the case is not an appeal or a case on review or revision, the matter respecting which there is the difference of opinion shall be referred to the Local Government for decision, and the decision of that Government with respect thereto shall be final.

**Vide* Punjab Government Notification No. 731, dated 1st November 1887, all Assistant Commissioners and Extra Assistant Commissioners who have not been invested with the powers of the Assistant Collector of the first grade have been appointed Assistant Collectors of the second grade, and, *vide* Punjab Government Notification No. 730, of the same date, all Tahsildars and Naib-Tahsildars have been appointed Assistant Collectors of the second grade.

See also Punjab Government Notification No. 684, dated the 18th September 1893, appointing all Assistant Commissioners and Extra Assistant Commissioners who have been invested with the powers of a Magistrate of the first or second class under the Criminal Procedure Code and also with powers of a Munsif of the first or second class under the Punjab Courts Act as Assistant Collectors of the first grade.

(4) The expression "Financial Commissioner" in this or any other Act shall, when there are more Financial Commissioners than one, be construed as meaning one or more of the Financial Commissioners as the rules for the time being in force under sub-section (2) may require.

(5) The Second Financial Commissioner appointed under section 52 of the Punjab Courts Act, 1884, shall be deemed to have had ^{XVIII of} jurisdiction on and after the first day of November, 1884, to make ^{1884.} any decree or order or dispose of any other business which might have been made or disposed of by the other Financial Commissioner.

Appointment of Commissioners, and of Deputy, Assistant and Extra Assistant Commissioners.

8. Commissioners, Deputy Commissioners, Assistant Commissioners and Extra Assistant Commissioners shall be appointed and may be removed by the Local Government.

Appointment of Tahsildars and Naib-Tahsildars.

9. The Local Government shall fix the number of Tahsildars and Naib-Tahsildars to be appointed, and the Financial Commissioner may make rules for their appointment and removal.

Powers of Revenue-officers.

10. Except where the class of the Revenue-officer by whom any function is to be discharged is specified in this Act, the Local Government may by notification, determine the functions to be discharged under this Act by any class of Revenue-officers.

Administrative Control.

Superintendence and control of Revenue-officers.

11. (1) The Financial Commissioner shall be subject to the control of the Local Government.

(2) The general superintendence and control over all other Revenue-officers shall be vested in, and all such officers shall be subordinate to, the Financial Commissioner.

(3) Subject to the general superintendence and control of the Financial Commissioner, a Commissioner shall control all other Revenue-officers in his division.

(4) Subject as aforesaid and to the control of the Commissioner, a Collector shall control all other Revenue-officers in his district.

Power to distribute business and withdraw and transfer cases.

12. (1) The Financial Commissioner or a Commissioner or Collector may by written order distribute, in such manner as he thinks fit, any business cognizable by any Revenue-officer under his control.

(2) The Financial Commissioner or a Commissioner or Collector may withdraw any case pending before any Revenue-officer under his control, and either dispose of it himself, or by written order refer it for disposal to any other Revenue-officer under his control.

(3) An order under sub-section (1) or sub-section (2) shall not empower any officer to exercise any powers or deal with any business which he would not be competent to exercise or deal with within the local limits of his own jurisdiction.

Appeal, Review and Revision.

13. Save as otherwise provided by this Act, an appeal shall lie ^{Appeals.} from an original or appellate order of a Revenue-officer as follows, namely:

- (a) to the Collector when the order is made by an Assistant Collector of either grade;
- (b) to the Commissioner when the order is made by a Collector;
- (c) to the Financial Commissioner when the order is made by a Commissioner:

Provided that—

- (i) when an original order is confirmed on first appeal, a further appeal shall not lie;
- (ii) when any such order is modified or reversed on appeal by the Collector, the order made by the Commissioner on further appeal, if any, to him shall be final.

14. Save as otherwise provided by this Act, the period of ^{Limitation for Appeals.} limitation for an appeal under the last foregoing section shall run from the date of the order appealed against, and shall be as follows, that is to say:—

- (a) when the appeal lies to the Collector—thirty days;
- (b) when the appeal lies to the Commissioner—sixty days;
- (c) when the appeal lies to the Financial Commissioner—ninety days.

15. (1) A Revenue-officer may, either of his own motion or on ^{Review by Revenue-officers.} the application of any party interested, review, and on so reviewing modify, reverse or confirm, any order passed by himself or by any of his predecessors in office:

Provided as follows:—

- (a) when a Commissioner or Collector thinks it necessary to review any order which he has not himself passed, and when a Revenue-officer of a class below that of Collector proposes to review any order, whether passed by himself or by any of his predecessors in office, he shall first obtain the sanction of the Revenue-officer to whose control he is immediately subject;
- (b) an application for review of an order shall not be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within that period;
- (c) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order;
- (d) an order against which an appeal has been preferred shall not be reviewed.

(2) For the purposes of this section, the Collector shall be deemed to be the successor in office of any Revenue-officer of a lower class who has left the district or has ceased to exercise powers as a Revenue-officer, and to whom there is no successor in office.

(3) An appeal shall not lie from an order refusing to review or confirming on review a previous order.

Power to call for, examine and revise proceedings of Revenue-officers.

16. (1) The Financial Commissioner may at any time call for the record of any case pending before, or disposed of by, any Revenue-officer subordinate to him.

(2) A Commissioner or Collector may call for the record of any case pending before, or disposed of by, any Revenue-officer under his control.

(3) If in any case in which a Commissioner or Collector has called for a record he is of opinion that the proceedings taken or order made should be modified or reversed, he shall report the case with his opinion thereon for the orders of the Financial Commissioner.

(4) The Financial Commissioner may in any case called for by himself under sub-section (1) or reported to him under sub-section (3) pass such order as he thinks fit:

Provided that he shall not under this section pass an order reversing or modifying any proceeding or order of a subordinate Revenue-officer and affecting any question of right between private persons without giving those persons an opportunity of being heard.

Procedure.

Power to make rules as to procedure.

17. (1) The Local Government may make rules consistent with this Act for regulating the procedure of Revenue-officers under this Act in cases in which a procedure is not prescribed by this Act.

(2) The rules may provide, among other matters, for the mode of enforcing orders of ejection from, and delivery of possession of, immoveable property, and rules providing for those matters may confer on a Revenue-officer all or any of the powers in regard to contempts, resistance and the like which a Civil Court may exercise in the execution of a decree whereby it has adjudged ejection from, or delivery or possession of, such property.

(3) Subject to the rules under this section, a Revenue-officer may refer any case which he is empowered to dispose of under this Act to another Revenue-officer for investigation and report, and may decide the case upon the report.

Persons by whom appearances and applications may be made before and to Revenue-officers.

18. (1) Appearances before a Revenue-officer, and applications to and acts to be done before him, under this Act may be made or done—

(a) by the parties themselves, or

(b) by their recognized agents or a legal practitioner:

Provided that the employment of a recognized agent or legal practitioner shall not excuse the personal attendance of a party to

any proceeding in any case in which personal attendance is specially required by an order of the officer.

(2) For the purposes of sub-section (1), recognised agents shall be such persons as the Local Government may by notification declare in this behalf.

(3) The fees of a legal practitioner shall not be allowed as costs in any proceeding before a Revenue-officer under this Act unless that officer considers, for reasons to be recorded by him in writing, that the fees should be allowed.

19. (1) A Revenue-officer may summon any person whose attendance he considers necessary for the purpose of any business before him as a Revenue-officer. Power of Revenue-officer to summon persons.

(2) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or, if the summons so allows, by his recognized agent or a legal practitioner.

(3) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as the Revenue-officer may require.

20. (1) A summons issued by a Revenue-officer shall, if practicable, be served (a) personally on the person to whom it is addressed or failing him (b) his recognized agent or (c) an adult male member of his family usually residing with him. Mode of service of summons.

(2) If service cannot be so made, or if acceptance of service so made is refused, the summons may be served by posting a copy thereof at the usual or last known place of residence of the person to whom it is addressed, or, if that person does not reside in the district in which the Revenue-officer is employed and the case to which the summons relates has reference to land in that district, then by posting a copy of the summons on some conspicuous place in or near the estate wherein the land is situate.

(3) If the summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable, it may, if the Revenue-officer so directs, be served by delivery of a copy thereof to such of those persons as the Revenue-officer nominates in this behalf and by proclamation of the contents thereof for the information of the other persons interested.

(4) A summons may, if the Revenue-officer so directs, be served on the person named therein, either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the person and registered under Part III of the India Post Office Act, 1866.*

XIV of 1866.

(5) When a summons is so forwarded in a letter, and it is proved that the letter was properly addressed and duly posted and regis-

*See now Act VI of 1898.

tered, the Revenue-officer may presume that the summons was served at the time when the letter would be delivered in the ordinary course of post.

Mode of service of notice, order or proclamation, or copy thereof.

21. A notice, order or proclamation or copy of any such document, issued by a Revenue-officer for service on any person shall be served in the manner provided in the last foregoing section for the service of a summons.

Mode of making proclamation.

22. When a proclamation relating to any land is issued by a Revenue-officer, it shall, in addition to any other mode of publication which may be prescribed in any provision of this Act, be made by beat of drum or other customary method, and by the posting of a copy thereof on a conspicuous place in or near the land to which it relates.

Supplemental Provisions.

Place of sitting.

23. (1) An Assistant Collector may exercise his powers under this Act at any place within the limits of the district in which he is employed.

(2) Any other Revenue-officer may only exercise his powers under this Act within the local limits of his jurisdiction.

Holidays.

24. (1) The Financial Commissioner, with the approval of the Local Government, shall publish in the local official Gazette before the commencement of each calendar year a list of days to be observed in that year as holidays by all or any Revenue-officers.

(2) A proceeding had before a Revenue-officer on a day specified in the list as a day to be observed by him as a holiday shall not be invalid by reason only of its having been had on that day.

Discharge of duties of Collector dying or being disabled.

25. When a Collector dies or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district under any orders which may be generally or specially issued by the Local Government in this behalf shall be deemed to be a Collector under this Act.

Retention of powers by Revenue-officers on transfer.

26. When a Revenue-officer of any class who has been invested under the foregoing provisions of this Act with any powers to be exercised in any local area is transferred from that local area to another as a Revenue-officer of the same or a higher class, he shall continue to exercise those powers in that other local area unless the Local Government otherwise directs or has otherwise directed.

Conferment of powers of Revenue-officer.

27. (1) The Local Government may by notification confer on any person—

(a) all or any of the powers of a Financial Commissioner, Commissioner or Collector under this Act, or

(b) all or any of the powers with which an Assistant Collector may be invested thereunder, and may by notification withdraw any powers so conferred.

(2) A person on whom powers are conferred under sub-section (1) shall exercise those powers within such local limits and in such classes of cases as the Local Government may direct, and, except as otherwise directed by the Local Government, shall for all purposes

connected with the exercise thereof be deemed to be a Financial Commissioner, Commissioner, Collector or Assistant Collector, as the case may be.

(3) If any of the powers of a Collector under this Act are conferred on an Assistant Collector, they shall, unless the Local Government by special order otherwise directs, be exercised by him subject to the control of the Collector.

CHAPTER III.

KANUNGOS, ZAILDARS, INAMDARS AND VILLAGE-OFFICERS.

28. (1) The Financial Commissioner may make rules to regulate the appointment, duties, emoluments, punishment, suspension and removal of kanungos, zaildars, inamdars and village-officers.

Rules respecting kanungos, zaildars, inamdars and village-officers.

XVII
1896.

of (2) When the Government undertakes to pay the zaildars and inamdars in any district, tahsil or other local area from the land revenue realized in that local area, a rule under sub-section (1) may direct that from every person to whom the land-revenue of any land in that local area has been released or assigned, or who has redeemed or compounded for the same, there shall be levied as a contribution towards the payment of such zaildars and inamdars a rate not exceeding one-and-a-half per cent. on the land-revenue which has been, or, but for such release, assignment, redemption or composition, would have been, assessed on such land; and, in any case in which land-revenue is collected on account of such land by any Revenue-officer for any such person, such officer may deduct that percentage from the amount payable by him to that person.

XVII
1896.

of 29. (1) The Local Government may, by notification, impose on all or any estates in the territories for the time being administered by it a cess, to be called the village-officers' cess, at such rate or rates not exceeding (half an anna)* for every rupee of the annual value as it may think fit, for remunerating (headmen and chief headmen)† in those territories and for defraying other expenditure directly connected with the supervision of those officers or with the performance of their duties.

Village-officers' cess.

XX of 1883.

(2) 'Annual value' in sub-section (1) has the meaning assigned to that expression in the Punjab District Boards Act, 1883; that is to say,—

- (a) double the land-revenue for the time being assessed on any land, whether the assessment is leviable or not; or
- (b) where the land-revenue has been permanently assessed or has been wholly or in part compounded for or redeemed, double the amount which, but for such permanent assessment, composition or redemption, would have been leviable; or

* These words were substituted for the words "one anna" by the Repealing and Amending (Rates and Cesses) Act, 1907 (IV of 1907).

† These words were substituted for the words "village-officers" by the Repealing and Amending (Rates and Cesses) Act, 1907 (IV of 1907).

- (c) where no land-revenue has been assessed, double the amount which would have been assessed, if the average village-rate had been applied;

Provided that, in any tract in which, under the settlement for the time being in force, the improvement of the land due to canal irrigation has been excluded from account in assessing the land-revenue, and a rate has been imposed in respect of such improvement, that rate shall be added to the land-revenue for the purpose of computing the annual value.

(3) The Financial Commissioner may make rules for the collection, control and expenditure of the village-officers' cess.

(4) All cesses now levied in any local area for the purposes mentioned in sub-section (1) shall be deemed to have been lawfully imposed and shall, until the village-officers' cess is imposed in that local area under that sub-section, be deemed to be lawfully leviable and, for the purposes of this section, to be that cess.

Restriction on attachment or es-
signment of remuneration of kanungos, zaildars, inamdars and village-officers.

30. (1) The emoluments of a kanungo, zaildar, inamdar or village-officer shall not be liable to attachment in execution of a decree or order of any Civil or Revenue Court.

(2) An assignment of, or charge on, or an agreement to assign or charge, any such emoluments shall be void unless it is authorized by rules made by the Financial Commissioner in this behalf.

CHAPTER IV.

RECORDS.

Records-of-rights and Annual Records.

Record-of-rights and documents included therein.

31. (1) Save as otherwise provided by this Chapter, there shall be a record-of-rights for each estate.

(2) The record-of-rights for an estate shall include the following documents, namely:—

(a) statements showing, so far as may be practicable,—

(i) the persons who are land-owners, tenants or assignees of land revenue in the estate, or who are entitled to receive any of the rents, profits or produce of the estate or to occupy land therein;

(ii) the nature and extent of the interests of those persons, and the conditions and liabilities attaching thereto; and

(iii) the rent, land-revenue, rates, cesses or other payments due from and to each of those persons and to the Government;

(b) a statement of customs respecting rights and liabilities in the estate;

(c) a map of the estate; and

(d) such other documents as the Financial Commissioner may, with the previous sanction of the Local Government, prescribe.

32. (1) When it appears to the Local Government that a record-of-rights for an estate does not exist, or that the existing record-of-rights for an estate requires special revision, the Local Government may by notification direct that a record-of-rights be made or that the record-of-rights be specially revised, as the case may be. Making or special revision of record-of-rights.

(2) The notification may direct that records-of-rights shall be made or specially revised for all or any estates in any local area.

(3) A record-of-rights made or specially revised for an estate under this section shall be deemed to be the record-of-rights for the estate, but shall not affect any presumption in favour of the Government which has already arisen from any previous record-of-rights.

33. (1) The Collector shall cause to be prepared by the patwari of each estate yearly, or at such other intervals as the Financial Commissioner may prescribe, an edition of the record-of-rights amended in accordance with the provisions of this Chapter. Annual record.

(2) This edition of the record-of-rights shall be called the annual record for the estate, and shall comprise the statements mentioned in sub-section (2), clause (a), of section 31 and such other documents, if any, as the Financial Commissioner may, with the previous sanction of the Local Government, prescribe.

(3) For the purposes of the preparation of the annual record, the Collector shall cause to be kept up by the patwari of each estate a register of mutations and such other registers as the Financial Commissioner may prescribe.

Procedure for making Records.

34. (1) Any person acquiring, by inheritance, purchase, mortgage, gift or otherwise, any right in an estate as a land-owner, assignee of land-revenue or tenant having a right of occupancy, shall report his acquisition of the right to the patwari of the estate. Making of that part of the annual record which relates to land-owners, assignees of revenue and occupancy-tenants.

(2) If the person acquiring the right is a minor or otherwise disqualified, his guardian or other person having charge of his property shall make the report to the patwari.

(3) The patwari shall enter in his register of mutations every report made to him under sub-section (1) or sub-section (2), and shall also make an entry therein respecting the acquisition of any such right as aforesaid which he has reason to believe to have taken place, and of which a report should have been made to him under one or other of those sub-sections and has not been so made.

(4) A Revenue-officer shall from time to time inquire into the correctness of all entries in the register of mutations and into all such acquisitions as aforesaid coming to his knowledge of which, under the foregoing sub-sections, report should have been made to the patwari and entry made in that register, and shall in each case make such order as he thinks fit with respect to the entry in the annual record of the right acquired.

(5) Such an entry shall be made by the insertion in that record of a description of the right acquired and by the omission from that record of any entry in any record previously prepared which by reason of the acquisition has ceased to be correct.

Making of that part of the annual record which relates to other persons.

35. The acquisition of any interest in land other than a right referred to in sub-section (1) of the last foregoing section shall,—

(a) if it is undisputed, be recorded by the patwari in such manner as the Financial Commissioner may by rule in this behalf prescribe; and

(b) if it is disputed, be entered by the patwari in the register of mutations and dealt with in the manner prescribed in sub-sections (4) and (5) of the last foregoing section.

Determination of disputes.

36. (1) If during the making, revision or preparation of any record or in the course of any enquiry under this Chapter a dispute arises as to any matter of which an entry is to be made in a record or in a register of mutations, a Revenue-officer may of his own motion, or on the application of any party interested, but subject to the provisions of the next following section, and after such inquiry as he thinks fit, determine the entry to be made as to that matter.

(2) If in any such dispute the Revenue-officer is unable to satisfy himself as to which of the parties thereto is in possession of any property to which the dispute relates, he shall ascertain by summary inquiry who is the person best entitled to the property, and shall by order direct that that person be put in possession thereof, and that an entry in accordance with that order be made in the record or register.

(3) A direction of a Revenue-officer under sub-section (2) shall be subject to any decree or order which may be subsequently passed by any Court of competent jurisdiction.

Restrictions on variations of entries in records.

37. Entries in records-of-rights or in annual records, except entries made in annual records by patwaris under clause (a) of section 35 with respect to undisputed acquisitions of interest referred to in that section, shall not be varied in subsequent records otherwise than by—

(a) making entries in accordance with facts proved or admitted to have occurred;

(b) making such entries as are agreed to by all the parties interested therein or are supported by a decree or order binding on those parties;

(c) making new maps where it is necessary to make them.

Mutation-fees.

38. (1) The Local Government may fix a scale of fees for all or any classes of entries in any record or register under this Chapter and for copies of any such entries.

(2) A fee in respect of an entry shall be payable by the person in whose favour the entry is made.

39. Any person neglecting to make the report required by section 34 within three months from the date of his acquisition of a right referred to in that section shall be liable, at the discretion of the Collector, to a fine not exceeding five times the amount of the fee which would have been payable according to the scale fixed under the last foregoing section if the acquisition of the right had been reported immediately after its accrual.

Penalty for neglect to report acquisition of any right referred to in section 34.

40. Any person whose rights, interests or liabilities are required to be entered in any record under this Chapter shall be bound to furnish, on the requisition of any Revenue-officer or village-officer engaged in compiling the record, all information necessary for the correct compilation thereof.

Obligation to furnish information necessary for the preparation of records.

Rights of the Government and presumptions with respect thereto and to other matters.

41. All mines of metal and coal, and all earth-oil and gold washings shall be deemed to be the property of the Government, and the Government shall have all powers necessary for the proper enjoyment of its right thereto.

Rights of the Government in mines and minerals.

42. (1) When in any record-of-rights completed before the eighteenth day of November, 1871, it is not expressly provided that any forest, quarry, unclaimed, unoccupied, deserted or waste-land, spontaneous produce or other accessory interest in land belongs to the land-owners, it shall be presumed to belong to the Government.

Presumption as to ownership of forests, quarries and waste-lands.

(2) When in any record-of-rights completed after that date it is not expressly provided that any forest or quarry or any such land or interest belongs to the Government, it shall be presumed to belong to the land-owners.

(3) The presumption created by sub-section (1) may be rebutted by showing—

(a) from the records or report made by the assessing officer at the time of assessment, or

(b) if the record or report is silent, then from a comparison between the assessment of villages in which there existed, and the assessment of villages of similar character in which there did not exist, any forest or quarry, or any such land or interest,

that the forest, quarry, land or interest was taken into account in the assessment of the land-revenue.

(4) Until the presumption is so rebutted, the forest, quarry, land or interest shall be held to belong to the Government.

43. (1) Whenever, in the exercise of any right of the Government referred to in either of the two last foregoing sections, the rights of any person are infringed by the occupation or disturbance of the surface of any land, the Government shall pay, or cause to be paid to that person compensation for the infringement.

Compensation for infringement of rights of third parties in exercise of a right of the Government.

(2) The compensation shall be determined as nearly as may be in accordance with the provisions of the Land Acquisition Act, X of 1870-1870.*

Presumption in favour of entries in Records-of-rights and annual records.

44. An entry made in a record-of-rights in accordance with the law for the time being in force, or in an annual record in accordance with the provisions of this Chapter and the rules thereunder, shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor.

Suit for declaratory decree by persons aggrieved by an entry in a record.

45. If any person considers himself aggrieved as to any right of which he is in possession by an entry in a record-of-rights or in an annual record, he may institute a suit for a declaration of his right under Chapter VI of the Specific Relief Act, 1877.

I of 1877.

Supplemental Provisions.

46. The Financial Commissioner may make rules—

Powers to make rules respecting records and other matters connected therewith.

- (a) prescribing the language in which records and registers under this Chapter are to be made;
- (b) prescribing the form of those records and registers, and the manner in which they are to be prepared, signed and attested;
- (c) for the survey of land so far as may be necessary for the preparation and correction of those records and registers;
- (d) for the conduct of inquiries by Revenue-officers under this Chapter; and
- (e) generally for the guidance of Revenue-officers and village-officers in matters pertaining to records and registers mentioned or referred to in this Chapter.

Records-of-rights and annual records for groups of estates.

47. (1) The Financial Commissioner may direct that a record-of-rights be made for any group of neighbouring estates instead of separately for each of the estates.

(2) The provisions of this Chapter with respect to a record-of-rights and annual record for an estate shall then, so far as they can be made applicable, apply to a record-of-rights and annual record for a group of estates.

CHAPTER V.

ASSESSMENT.

Assessment of land revenue.

48. (1) All land, to whatever purpose applied and wherever situate, is liable to the payment of land-revenue to the Government, except such land as has been wholly exempted from that liability by special contract with the Government or by the provisions of any law for the time being in force *and such land as is included in the village site.* Punjab Act, III of 1928.

(2) Land-revenue shall be assessed in cash.

Punjab Act, III of 1928.

(3) Land may be assessed to land-revenue notwithstanding that that revenue, by reason of its having been assigned, released, compounded for or redeemed, is not payable to the Government.

* See now the Land Acquisition Act, 1894 (I of 1894).

Punjab Act,
III of 1928.

(4) Land Revenue may be assessed—

- (a) as a fixed annual charge payable in a lump sum or by instalments;
- (b) in the form of prescribed rates per acre or other unit of area applicable to the area recorded as sown, matured or cultivated during any harvest or during any year.

Punjab Act,
III of 1928.

48-A. The assessment of land revenue shall be based on an estimate of the average money value of the nett assets of the estate or group of estates in which the land concerned is situated. Basis of assessment.

48-B. If the land-revenue is assessed as a fixed annual charge the amount thereof, and if it is assessed in the form of prescribed rate, the average amount which, according to an estimate in writing approved by the Local Government, will be leviabie annually, shall not, in the case of any assessment circle, exceed one-fourth of the estimated money value of the nett assets of such assessment circle. Limit of assessment.

Provided that nothing contained in this section shall affect any assessment in force at the time of the commencement of the Punjab Land Revenue (Amendment) Act, 1928.

General Assessments.

Punjab Act,
III of 1928.

49. (1) *Assessments of land-revenue may be general or special.* Notification of intended re-assessment and instructions as to principles of assessment.

(2) A general re-assessment of the land-revenue of any area shall not be undertaken without the previous sanction of the Local Government and notification of that sanction.

Punjab Act,
III of 1928.

(3) *In granting such sanction the Local Government may give such instructions consistent with the provisions of this Act and the rules made thereunder as it may deem fit.*

Punjab Act,
III of 1928.

50. (1) A general assessment shall be made by a Revenue-officer. Mode of determining assessment.

Punjab Act,
III of 1928.

(2) Before making such assessment the Revenue-officer shall report through the Financial Commissioner for the sanction of the Local Government his proposal with regard thereto.

Punjab Act,
III of 1928.

51. (1) After consideration of the proposals submitted by the Revenue-officer under the provisions of section 50 the Local Government shall pass such orders as it may deem fit, subject to the provisions of sub-sections (3) and (4), and on the receipt of such orders the Revenue-officer shall make an order determining the assessment proper for each estate concerned and shall announce it in such manner as the Local Government may by rule prescribe. Announcement of assessment.

Punjab Act,
III of 1928.

(2) At the time of announcing the assessment the Revenue officer shall also declare the date from which it is to take effect, and, subject to the other provisions of this Act, it shall take effect accordingly.

Punjab Act,
III of 1928.

(3) Subject to the provisions of sub-section (4) the average rate of incidence on the cultivated area of the land-revenue imposed under the provisions of sub-section (1) on any assessment circle forming part of any area in respect of which a notification has been issued under sub-section (1) of section 49 shall not exceed the rate of incidence of the land-revenue imposed at the last previous

assessment by more than one-fourth: provided that the rate of incidence of the assessment imposed on any estate shall not exceed the rate of incidence of the last previous assessment on that estate by more than two-thirds.

(4) The provisions of sub-section (3) shall not be applicable in Punjab Act, III of 1928. the case of land which has not been previously assessed to land-revenue or of which the last previous assessment was made under the provision of clause (b) of sub-section (1) of section 59, or in the case of land in which canal irrigation has been introduced, after the date of the orders passed under the provisions of sub-section (1) of section 51, at the last previous assessment or in the case of an area which has been declared by notification to be an urban assessment circle and for the purpose of calculating the increase in the incidence of the land-revenue for the purpose of sub-section (3), all such land shall be excluded from calculation:

Provided that no area shall be declared to be an urban assessment circle unless it is included within the limits of a municipality or of an area in respect of which a notification has been issued under section 241 of the Punjab Municipal Act, 1911, or of an area declared to be a small town under the provisions of the Punjab Small Towns Act, 1921.

Application for reconsideration of assessment.

52. (1) The land-owner may, within thirty days from the date of the announcement of the assessment, present a petition to the Revenue-officer for a reconsideration of the amount, form or conditions of the assessment.

(2) Where the land-revenue is assigned, the assignee thereof may within thirty days from that date, present a like petition to the Revenue-officer.

(3) The order passed by the Revenue-officer on the petition shall set forth his reasons for granting or refusing it.

Confirmation and duration of assessment.

53. (1) *An assessment, the undertaking of which has been sanctioned under the provisions of section 49* shall not be considered final until it has been confirmed by the Local Government. Punjab Act, III of 1928.

(2) At any time before an assessment is so confirmed the Commissioner or Financial Commissioner may *subject to the provisions of sub-section (3)* modify the assessment of any estate. Punjab Act, III of 1928.

(3) Before an enhancement is ordered under the provisions of sub-section (2) the Commissioner or the Financial Commissioner as the case may be, shall cause reasonable notice to be given to the land-owners by proclamation published in the manner described in section 22, to show cause in a petition addressed to the Revenue-officer why the proposed enhancement should not be ordered, and the Revenue-officer shall enquire into any objections raised by any land-owner and submit such petition received with his report thereon to the Commissioner or the Financial Commissioner, who shall consider the petition and the report and shall also hear the petitioner if he so desires.

Duration of assessment.

53-A. (1) The Local Government shall, when confirming an assessment under sub-section (1) of section 53, fix a period of time for which the assessment shall remain in force. Punjab Act, III of 1928.

(2) The period fixed under sub-section (1) shall be forty years :
Provided that—

- (i) a period not exceeding forty years and not shorter than ten years may be fixed for any area, specified by the Local Government, in which canal irrigation has been introduced after the date of the orders passed under the provisions of sub-section (1) of section 51 at the last previous assessment or in which it has been proposed to introduce such irrigation during the period fixed;
- (ii) a period not exceeding forty years and not shorter than twenty years may be fixed on the expiry of a period fixed under the provisions of clause (i) of this proviso;
- (iii) nothing in this sub-section shall affect any assessment in force at the time of the commencement of the Punjab Land Revenue (Amendment) Act, 1928, or apply to an area which has been declared to be an urban assessment circle under the provisions of sub-section (4) of section 51.

Punjab Act,
III of 1928.

54. Notwithstanding the expiration of the period fixed for the continuance of an assessment under the last foregoing section, the assessment shall remain in force till a new assessment takes effect.

Assessment to remain in force till new assessment takes effect. Refusal to be liable for assessment and consequences thereof.

55. (1) At any time within ninety days from the date of the announcement of an assessment the land-owner or, where there are more land-owners than one, any of them who would be individually or collectively liable for more than half the sum assessed, may give notice to the Revenue-officer of refusal to be liable for the assessment.

(2) When the Revenue-officer receives a notice under sub-section (1), the Collector may take possession of the estate and deal with it, as nearly as may be, as if the annulment of the assessment thereof had been ordered as a process for the recovery of an arrear of land-revenue due thereon.

(3) While the estate is in the possession of the Collector, the land-owner or land-owners shall be entitled to receive from the Government an allowance, to be fixed by the Financial Commissioner, which shall not be less than five or more than ten per cent of the net income realized by the Government from the estate.

56. (1) If the assessment announced under section 51 is in whole or in part a fixed assessment of an estate for a term of years, the Revenue-officer shall, before the date on which the first instalment thereof becomes payable, make an order distributing it over the several holdings comprised in the estate and make and publish a record of the distribution.

Distribution of the assessment of an estate over the holdings comprised therein.

(2) The Collector may for sufficient reason make an order revising that record at any time while the assessment continues to be in force, and publish the record so revised.

(3) If the assessment announced under section 51 is in the form of rates chargeable according to the results of each year or harvest,

a Revenue-officer shall, from year to year or from harvest to harvest, as the conditions of the assessment may require, make and publish, not later than one month before the first instalment of the land-revenue falls due, a record of the amount payable in respect of each holding.

Application for amendment of the distribution of an assessment.

57. (1) Any person affected by a record made under sub-section (1) or sub-section (3) of the last foregoing section, or by the revision of a record under sub-section (2) of that section, may, within thirty days from the date of the publication of the record, present a petition to the Revenue-officer for a re-consideration of the record so far as it affects him.

(2) The order passed by the Revenue-officer on the petition shall set forth his reasons for granting or refusing it.

Appeals from orders under sections 52 and 57.

58. An appeal from an order under the last foregoing section or section 52 shall lie to the Commissioner, and from the appellate order of the Commissioner to the Financial Commissioner.

Special Assessments.

Special assessments.

59. (1) Special assessments may be made by Revenue-officers in the following cases, namely:—

(a) when land-revenue which has been released or assigned is resumed;

(b) when lands are sold, leased or granted by the Government;

Punjab Act, III of 1928.

(c) when the assessment of any land has been annulled or the land-owner has refused to be liable therefor, and the term for which the land was to be managed by the Collector or his agent or let in farm has expired;

(d) when assessments of land-revenue require revision in consequence of the action of water or sand or of calamity of season or from any other cause;

(e) when revenue due to the Government on account of pasture or other natural products of land, or on account of mills, fisheries or natural products of water, or on account of other rights described in section 41 or section 42, has not been included in an assessment made under the foregoing provisions of this Chapter.

(2) The Financial Commissioner may confirm any assessment made under this section.

Punjab Act, III of 1928.

(3) The foregoing provisions of this Chapter with respect to general assessments shall, subject to such modifications thereof as the Financial Commissioner may prescribe *executive instructions issued under the provisions of section 60-C*, regulate the procedure of Revenue-officers making special assessments.

Punjab Act, III of 1928.

Power to make rules

60. The Local Government shall, subject to the provisions of section 60-A from time to time, make rules prescribing—

Punjab Act, III of 1928.

(a) the method by which the estimate of the money value of the nett assets of an estate or group of estates shall be made;

- (b) the method by which assessment to land revenue shall be made;
- (c) the principles on which exemption from assessment shall be allowed for improvements;
- (d) the manner in which assessment shall be announced;
- (e) the manner in which the rate of incidence of the land-revenue is to be calculated for the purpose of subsection (3) of section 51.

Punjab Act,
VII of 1929.

60-A. Before making any rules under the provisions of section 60, the Local Government shall, in addition to observing the procedure laid down in section 21 of the Punjab General Clauses Act, 1898, publish by notification a draft of the proposed rules for the information of persons likely to be affected thereby at least thirty days before a meeting of the Punjab Legislative Council. The Local Government shall defer consideration of such rules until after the meeting of the Punjab Legislative Council next following the publication of the draft, in order to give any member of the council an opportunity to introduce a motion for discussing the draft.

Procedure to be followed in making Rules.

Punjab Act,
III of 1928.

60-B. Notwithstanding anything contained in section 60-A, for the purpose of all assessment operations begun before the date of publication of rules made after the commencement of the Punjab Land Revenue (Amendment) Act, 1928, the rules and executive instructions relating to the matters mentioned in clauses (a), (b), (c) and (d) of section 60 which were in force before such publication shall remain in force.

Rules and executive instructions issued before commencement of Punjab Land Revenue (Amendment) Act, III of 1928, to be followed for the purpose of assessment operations begun before issue of rules made under the provisions of section 60-A.

Punjab Act,
III of 1928.

60-C. The Local Government or the Financial Commissioner with the approval of the Local Government may, for the guidance of Revenue-officers, from time to time, issue executive instructions relating to all matters to which the provisions of this chapter apply, provided that such instructions shall be consistent with the provisions of this Act and the rules made thereunder.

Power to issue instructions.

CHAPTER VI.

COLLECTION OF LAND-REVENUE.

61. (1) In the case of every estate, the entire estate and the land-owner or, if there are more than one, the land-owners jointly and severally, shall be liable for the land-revenue for the time being assessed on the estate:

Security for payment of land-revenue.

Provided that—

(a) the Local Government may by notification declare that **XXXVIII of 1920.** in any estate a holding or its owner shall not be liable for any part of the land-revenue for the time being assessed on the estate except that part which is payable in respect of the holding; and

(b) when there are superior and inferior land-owners in the same estate, the Financial Commissioner may by rule, or by special order in each case, determine whether the superior or inferior land-owners shall be liable for the land-revenue, or whether both shall be so liable, and, if so, in what proportions.

(2) A notification under proviso (a) to sub-section (1) may have reference to any single estate or to any class of estate or estates generally in any local area.

Further security for payment of land-revenue.

62. (1) The land-revenue for the time being assessed on an estate or payable in respect of a holding shall be the first charge upon the rents, profits and produce thereof.

(2) Without the previous consent of the Collector, the rents, profits or produce of an estate or holding shall not be liable to be taken in execution of a decree or order of any Court until the land-revenue chargeable against the rents, profits or produce, and any arrear of land-revenue due in respect of the estate or holding, have been paid.

Orders to regulate payment of land-revenue.

63. (1) Notwithstanding anything in any record-of-rights, the Financial Commissioner may fix the number and amount of the instalments, and the times, places and manner, by, at and in which land-revenue is to be paid.

(2) Until the Financial Commissioner otherwise directs, land-revenue shall be payable by the instalments, at the times and place and in the manner, by, at and in which it is payable at the commencement of this Act.

Rules to regulate collection, remission and suspension of land-revenue.

64. (1) The Financial Commissioner may make rules consistent with this Act to regulate the collection, remission and suspension of land-revenue, and may by those rules determine the circumstances and terms in and on which assigned land-revenue may be collected by the assignee.

(2) Where land-revenue due to an assignee is collected by a Revenue-officer, there shall be deducted from the sum collected such a percentage on account of the cost of collection as the Financial Commissioner may by rule in this behalf prescribe.

(3) A suit for an arrear of assigned land-revenue shall not be entertained unless there is annexed to the plaint at the time of the presentation thereof a document under the hand of the Collector specially authorizing the institution of the suit.

Costs recoverable as part of arrear.

65. The costs of any process issued under this Chapter shall be recoverable as part of the arrear of land-revenue in respect of which the process was issued.

66. A statement of account certified by a Revenue-officer shall be conclusive proof of the existence of an arrear of land-revenue, of its amount and of the person who is the defaulter.

Certified account to be evidence as to arrear.

67. Subject to the other provisions of this Act, an arrear of land-revenue may be recovered by any one or more of the following processes, namely:—

Processes for recovery of arrears.

- (a) by service of a writ of demand on the defaulter;
- (b) by arrest and detention of his person;
- (c) by distress and sale of his moveable property and uncut or ungathered crops;
- (d) by transfer of the holding in respect of which the arrear is due;
- (e) by attachment of the estate or holding in respect of which the arrear is due;
- (f) by annulment of the assessment of that estate or holding;
- (g) by sale of that estate or holding;
- (h) by proceedings against other immoveable property of the defaulter.

68. A writ of demand may be issued by a Revenue-officer on or after the day following that on which an arrear of land-revenue accrues.

Writ of demand.

69. (1) At any time after an arrear of land-revenue has accrued a Revenue-officer may issue a warrant directing an officer named therein to arrest the defaulter and bring him before the Revenue-officer.

Arrest and detention of defaulter.

(2) When the defaulter is brought before the Revenue-officer, the Revenue-officer may cause him to be taken before the Collector, or may keep him under personal restraint for a period not exceeding ten days and then, if the arrear is still unpaid, cause him to be taken before the Collector.

(3) When the defaulter is brought before the Collector, the Collector may issue an order to the officer in charge of the civil jail of the district, directing him to confine the defaulter in the jail for such period, not exceeding one month from the date of the order, as the Collector thinks fit.

(4) The process of arrest and detention shall not be executed against a defaulter who is a female, a minor, a lunatic or an idiot.

70. (1) At any time after an arrear of land-revenue has accrued, the moveable property and uncut or ungathered crops of the defaulter may be distrained and sold by order of a Revenue-officer.

Distress and sale of moveable property and crops.

(2) The distress and sale shall be conducted, as nearly as may be, in accordance with the law for the time being in force for the attachment and sale of moveable property under the decree of a Revenue Court constituted under the Punjab Tenancy Act, 1887:

XVI of 1887.

Provided that, in addition to the particulars exempted by that law from liability to sale, so much of the produce of the land of the defaulter as the Collector thinks necessary for seed-grain and for the subsistence, until the harvest next following, of the defaulter

and his family, and of any cattle exempted by that law, shall be exempted from sale under this section.

Transfer of holding.

71 (1) At any time after an arrear of land-revenue has accrued on a holding, the Collector may transfer the holding to any person, being a land-owner of the estate in which this holding is situate and not being a defaulter in respect of his own holding, on condition of his paying the arrear before being put in possession of the holding, and on such further conditions as the Collector may see fit to prescribe.

(2) The transfer may, as the Collector thinks fit, be either till the end of the agricultural year in which the defaulter pays to the transferee the amount of the arrear which the transferee paid before being put in possession of the holding, or for a term not exceeding fifteen years from the commencement of the agricultural year next following the date of the transfer.

(3) The Collector shall report to the Financial Commissioner any transfer made by him under this section, and the Financial Commissioner may set aside the transfer or alter the conditions thereof, or pass such other order as he thinks fit.

(4) A transfer under this section shall not affect the joint and several liability of the land-owners of the estate in which it is enforced.

(5) In respect of all rights and liabilities arising under this Act, the person to whom the holding is transferred shall, subject to the conditions of the transfer, stand in the same position as that in which the defaulter would have stood if the holding had not been transferred.

(6) When the transfer was for a term, the holding shall, on the expiration of the term, be restored by the Collector to the defaulter free of any claim on the part of the Government or the transferee for any arrear of land-revenue or rates and cesses due in respect thereof.

Attachment of estate or holding.

72 (1) At any time after an arrear of land-revenue has accrued, the Collector may cause the estate or holding in respect of which the arrear is due to be attached and taken under his own management or that of an agent appointed by him for that purpose.

(2) The Collector or the agent shall be bound by all the engagements which existed between the defaulter and his tenants, if any, and shall be entitled to manage the land and to receive all rents and profits accruing therefrom to the exclusion of the defaulter until the arrear has been satisfied, or until the Collector restores the land to the defaulter.

(3) All surplus profits of the land attached beyond the cost of attachment and management and the amount necessary to meet the current demand for land-revenue and rates and cesses shall be applied in discharge of the arrear.

(4) Land shall not be attached for the same arrear for a longer term than five years from the commencement of the agricultural year next following the date of the attachment, but, if the arrear is

sooner discharged, the land shall be released and the surplus receipts, if any, made over to the land-owner.

73. (1) When an arrear of land-revenue has been due for a longer period than one month, and the foregoing processes are not deemed sufficient for the recovery thereof, the Financial Commissioner may, in addition to or instead of all or any of those processes, order the existing assessment of the estate or holding in respect of which the arrear is due to be annulled. Annulment of assessment of estate or holding.

(2) The provisions of this section shall not be put in force for the recovery of an arrear of land-revenue which has accrued on land—

(a) while under attachment under the last foregoing section, or

(b) while under the charge of the Court of Wards.

(3) When the assessment of any land has been annulled, the Collector may, with the previous sanction of the Financial Commissioner, either manage the land himself or through an agent, or let it in farm to any person willing to accept the farm, for such term and on such conditions as may be sanctioned by the Financial Commissioner:

Provided that the term for which land may be so managed or farmed shall not be longer than fifteen years from the commencement of the agricultural year next following the date of the annulment.

(4) At some time before the expiration of that term the Collector shall determine the assessment to be paid in respect of the estate or holding for the remainder of the term of the current assessment of the district or tahsil, and, when that assessment has been sanctioned by the Financial Commissioner, shall announce it to the land-owner.

(5) The land-owner may give notice to the Collector of refusal to be liable for the assessment within thirty days from the date on which the assessment was announced to him.

(6) If notice is so given, the Collector may, with the previous sanction of the Financial Commissioner, take the estate or holding under direct management or farm it for the remainder of the term of the current assessment of the district or tahsil, or for any period within that term which the Financial Commissioner may fix.

(7) When the assessment of a holding is annulled, the joint responsibility of the other land-owners of the estate for the land-revenue of that holding becoming due after the annulment shall be in abeyance until a new assessment takes effect.

(8) The Financial Commissioner may direct that any contract made by the defaulter, or by any person through whom the defaulter claims, with respect to any land comprised in an estate or holding of which the assessment has been annulled, shall not be binding on the Collector or his agent or farmer during the period for which the estate or holding remains under the management of the Collector or his agent or is let in farm.

Proclamation of attachment or annulment of assessment and consequence of the proclamation.

74. (1) When any land is attached under section 72, or when the assessment of any land has been annulled under the last foregoing section, the Collector shall make proclamation thereof.

(2) No payment made by any person to the defaulter before the making of the proclamation on account of rent or any other asset in anticipation of the usual time for the payment shall, without the special sanction of the Collector, be credited to that person or relieve him from liability to make the payment to the Collector or his agent or farmer.

(3) No payment made after the making of the proclamation on account of rent or any other asset of the estate or holding to any person other than the Collector or his agent or farmer shall be credited to the person making the payment or relieve him from liability to make the payment to the Collector or his agent or farmer.

Sale of estate or holding.

75. When an arrear of land-revenue has accrued and the foregoing processes are not deemed sufficient for the recovery thereof, the Collector, with the previous sanction of the Financial Commissioner, may, in addition to, or instead of, all or any of those processes, and subject to the provisions hereinafter contained, sell the estate or holding in respect of which the arrear is due:

Provided that land shall not be sold for the recovery of—

- (a) any arrear which has accrued while the land was under the charge of the Court of Wards, or was so circumstanced that the Court of Wards might have exercised jurisdiction over it under the provisions of section 35 of the Punjab Laws Act, 1872, clause (a), (b), (c), IV of 1872, or (d); or
- (b) any arrear which has accrued while the land was under attachment under section 72 of this Act; or
- (c) any arrear which has accrued while the land was held under direct management by the Collector or in farm by any other person, under section 73, after either an annulment of assessment or a refusal to be liable therefor.

Effect of sale on incumbrances.

76. (1) Land sold under the last foregoing section shall be sold free of all incumbrances; and all grants and contracts previously made by any person other than the purchaser in respect of the land shall become void as against the purchaser at the sale.

(2) Nothing in sub-section (1) shall affect—

- (a) a tenant's right of occupancy, unless the right was created by the defaulter himself, or
- (b) any lease at a fair rent, temporary or perpetual, for the erection of a dwelling-house or manufactory, or for a mine, garden, tank, canal, place of worship, or burial-ground, so long as the land continues to be used for the purpose specified in the lease, or
- (c) any incumbrance, grant, contract or right of occupancy specially saved by order of the Financial Commissioner and proclaimed as hereinafter provided.

77. (1) If the arrear cannot be recovered by any of the processes hereinbefore provided, or if the Financial Commissioner considers the enforcement of any of those processes to be inexpedient, the Collector may, where the defaulter owns any other estate or holding, or any other immoveable property, proceed under the provisions of this Act against that property as if it were the land in respect of which the arrear is due.

Proceedings against other immoveable property of defaulter.

Provided that no interests save those of the defaulter alone shall be so proceeded against, and no incumbrances created, grants made or contracts entered into by him in good faith shall be rendered invalid by reason only of his interests being proceeded against.

(2) When the Collector determines to proceed under this section against immoveable property other than the land in respect of which the arrear is due, he shall issue a proclamation prohibiting the transfer or charging of the property.

(3) The Collector may at any time by order in writing withdraw the proclamation, and it shall be deemed to be withdrawn when either the arrear has been paid or the interests of the defaulter in the property have been sold for the recovery of the arrear.

(4) Any private alienation of the property, or of any interest of the defaulter therein, whether by sale, gift, mortgage or otherwise, made after the issue of the proclamation and before the withdrawal thereof shall be void.

(5) In proceeding against property under this section the Collector shall follow, as nearly as the nature of the property will admit, the procedure prescribed for the enforcement of process against land on which an arrear of land-revenue is due.

78. (1) Notwithstanding anything in section 66, when proceedings are taken under this Act for the recovery of an arrear the person against whom the proceedings are taken may, if he denies his liability for the arrear or any part thereof and pays the same under protest made in writing at the time of payment and signed by him or his agent, institute a suit in a Civil Court for the recovery of the amount so paid.

Remedies open to person denying his liability for an arrear.

(2) A suit under sub-section (1) must be instituted in a Court having jurisdiction in the place where the office of the Collector of the district in which the arrear or some part thereof accrued is situate.

Procedure in Sales.

79. (1) On the receipt of the sanction of the Financial Commissioner to the sale of any immoveable property, the Collector shall issue a proclamation of the intended sale, specifying—

Proclamation of sale.

- (a) the date, time and place of the sale;
- (b) the property to be sold, and, if it is an estate or holding, the land-revenue assessed thereon or payable in respect thereof;

- (c) if the property is to be sold for the recovery of an arrear due in respect thereof, the incumbrances, grants, contracts, and rights of occupancy, if any, specially saved by order of the Financial Commissioner under section 76, sub-section (2), clause (c);
- (d) if the property is to be sold otherwise than for the recovery of an arrear due in respect thereof any incumbrance, grant or contract to which the property is known to be liable; and
- (e) the amount for the recovery of which the sale is ordered.

(2) *Repealed by Punjab Act II of 1905.*

(3) The place of sale specified under clause (a), sub-section (1), must be either the office of the Collector or some place appointed by the Collector in this behalf and situate in or near the property to be sold.

Indemnity to Revenue-officer with respect to contents of proclamation. Publication of proclamation.

80. A Revenue-officer shall not be answerable for any error, mis-statement or omission in any proclamation under the last foregoing section, unless the same has been committed or made dishonestly.

81. (1) A copy of the proclamation shall be served on the defaulter and be posted in a conspicuous part of the office of the Tahsildar of the tahsil in which the property to be sold is situate.

(2) After a copy of the proclamation has been served on the defaulter and posted in the office of the Tahsildar, a copy thereof shall be posted in the office of the Collector.

(3) The proclamation shall be further published in manner prescribed in section 22 and in such other manner as the Collector thinks expedient.

Time and conduct of sale.

82. (1) The sale shall not take place on a Sunday or other holiday, or till after the expiration of at least thirty days from the date on which the copy of the proclamation was posted in the office of the Collector.

(2) The sale shall be by public auction and shall be conducted either by the Collector in person or by a Revenue-officer specially appointed by him in this behalf.

Power to postpone sale.

83. The Collector may from time to time postpone the sale.

Stay of sale.

84. If at any time before the bidding at the auction is completed the defaulter pays the arrear in respect of which the property has been proclaimed for sale, together with the costs incurred for the recovery thereof, to the officer conducting the sale, or proves to the satisfaction of that officer that he has already paid the same either at the place and in the manner prescribed under section 63 or into the Government treasury, the sale shall be stayed.

85. When the highest bid at the auction has been ascertained, the person who made that bid shall, on the requisition of the officer conducting the sale, pay to that officer a deposit of twenty-five per centum on the amount of his bid, and shall, on payment thereof, be declared to be the purchaser subject to the provisions of this Chapter with respect to the exercise of any right of pre-emption.

Payment of deposit by highest bidder.

86. If the person who made the highest bid fails to pay the deposit as required by the last foregoing section, the property shall forthwith be put up again and sold, and all expenses attending the first sale, and the deficiency of price, if any, which may happen on the re-sale, may be recovered from him by the Collector as if the same were an arrear of land-revenue.

Consequences of failure to pay deposit.

87. *Repealed—vide schedule annexed to Punjab Pre-emption Act, II of 1905.*

88. The full amount of the purchase-money shall be paid by the purchaser before the close of the fifteenth day from that on which the purchaser was declared.

Time for payment in full.

89. In default of payment of the full amount of the purchase-money within the period mentioned in the last foregoing section, the deposit referred to in section 85 or section 87, as the case may be, shall, after defraying the expenses of the sale, be forfeited to the Government and may, if the Collector, with the previous sanction of the Commissioner, so directs, be applied in reduction of the arrear, and the property shall be re-sold, and the defaulting purchaser shall have no claim to the property or to any part of the sum for which it may subsequently be sold.

Procedure in default of payment.

90. Every sale of immovable property under this Chapter shall be reported by the Collector to the Commissioner.

Report of sale to Commissioner.

91. (1) At any time within thirty days from the date of the sale, application may be made to the Commissioner to set aside the sale on the ground of some material irregularity or mistake in publishing or conducting it;

Application to set aside sale.

(2) But a sale shall not be set aside on that ground unless the applicant proves to the satisfaction of the Commissioner that he has sustained substantial injury by reason of the irregularity or mistake.

92. (1) After the expiration of thirty days from the date of the sale, if such application as is mentioned in the last foregoing section has not been made, or if such application has been made and rejected, the Commissioner shall make an order confirming the sale, and, if such application has been made and allowed, the Commissioner shall make an order setting aside the sale.

Order confirming or setting aside sale.

(2) An order made under this section shall be final.

Refund of purchase-money on setting aside of sale.

93. Whenever the sale of any property is set aside, the purchaser shall be entitled to receive back his purchase-money.

Proclamation after postponement or on re-sale.

94. A sale made after a postponement under section 83, and a re-sale consequent on a purchaser's default under section 89 or on the setting aside of a sale under section 92, shall be made after the issue of a fresh proclamation in the manner hereinbefore prescribed for the sale.

On confirmation of sale possession and certificate to be granted to purchaser.

95. (1) After a sale has been confirmed in manner aforesaid the Collector shall put the person declared to be the purchaser into possession of the property sold, and shall grant him a certificate to the effect that he has purchased that property.

(2) The certificate shall state whether or not the property was sold for the recovery of an arrear due in respect thereof, and, if it was so sold, shall set forth the incumbrances, grants, contracts and rights of occupancy, if any, specified in the proclamation of the sale as specially saved by order of the Financial Commissioner under section 76, sub-section (2), clause (c).

(3) The certificate shall be deemed to be a valid transfer of the property but need not be registered as a conveyance.

(4) Any suit brought in any Court against the certified purchaser on the ground that the purchase was made on behalf of a person other than the certified purchaser shall be dismissed with costs.

(5) The certified purchaser of any immoveable property shall be entitled to all rents and profits falling due in respect of the property after the date of the confirmation of the sale and be liable for all instalments of land-revenue and rates and cesses falling due in respect thereof after that date.

Proceeds of sale.

96. (1) When a sale of immoveable property under this Chapter has been confirmed, the proceeds of the sale shall be applied in the first place to the payment of any arrears, including costs incurred for the recovery thereof, due to the Government from the defaulter at the date of the confirmation of the sale, whether the arrears are of land-revenue, or of sums recoverable as arrears of land-revenue, and the surplus, if any, shall be paid to the person whose property has been sold, or, if the property sold was owned by more than one person, then to the owners either collectively or according to the amount of their recorded interests, as the Collector thinks fit.

(2) The surplus shall not, except under an order of a Court, be paid to any creditor of a person whose property has been sold.

(3) If the proceeds of the sale fall short of such arrears as are referred to in sub-section (1), the balance remaining due from the defaulter may be recovered from him by further proceedings under this Chapter or by any other means authorized by law.

CHAPTER VII.

RECOVERY OF OTHER DEMANDS BY REVENUE-OFFICERS.

97. When a village-officer required by rules under section 28 to collect any land-revenue or sum recoverable as an arrear of land-revenue satisfies a Revenue-officer that the revenue or sum has fallen due and has not been paid to him, the Revenue-officer may, subject to any rules which the Financial Commissioner may make in this behalf, recover it as if it were an arrear of land-revenue.

Recovery of certain arrears through Revenue-officer instead of by suit.

98. In addition to any sums recoverable as arrears of land-revenue under this Act or any other enactment for the time being in force, the following sums may be so recovered; namely:—

Other sums recoverable as arrears of land-revenue.

- (a) fees, fines, costs and other charges, including the village-officers' cess payable under this Act;
- (b) revenue due to the Government on account of pasture or other natural products of land, or on account of mills, fisheries or natural products of water, or on account of other rights described in section 41 or section 42 in cases in which the revenue so due has not been included in the assessment of an estate;
- (c) fees payable to district boards or local boards under section 33 of the Punjab District Boards Act, 1883, for the use of or benefits derived from such works as are referred to in section 20, clauses (i) and (j), of that Act;
- (d) sums leviable by or under the authority of the Government as water-rates, or on account of the maintenance or management of canals, embankments or other irrigation-works, not being sums recoverable as arrears of land-revenue under any enactment for the time being in force; and
- (e) sums payable to the Government by a person who is surety for the payment of any of the foregoing sums or of any other sum recoverable as an arrear of land-revenue.

XX of 1883.

99. (1) The provisions of Chapter VI shall, with respect to any sum mentioned or referred to in this Chapter, apply, so far as they can be made applicable, as if the sum were an arrear of land-revenue and the person from whom, either as principal or as surety, it is due were a defaulter in respect of such an arrear.

Application of Chapter VI to sums recoverable under this Chapter.

(2) Unless any such sum is declared by any enactment for the time being in force to be recoverable as if it were an arrear of land-revenue due in respect of the land charged therewith, the provisions of section 77 shall apply under sub-section (1) to the recovery thereof.

or other portion of an estate situate on each side of the boundary line so fixed, shall, subject to the following proviso, vest in the land-owners of the estate which lies on that side of the boundary line on which such holding, field or other portion of an estate is situate:

Provided that, if, by the operation of this section, the proprietary or any other rights in any land which at the time a boundary line is fixed is under cultivation, or reasonably fit for cultivation, or yields any produce of substantial value would be transferred from the land-owners and other right-holders of any one estate to the land-owners of any other estate, the Collector shall, by written order, direct that the rights in such land shall, subject to the provisions of section 101 C and section 101 D, not be so transferred unless and until the land, in respect of which any such order is made, ceases to be reasonably fit for cultivation, or to yield any produce of substantial value, and upon any such order being made, the transfer of the rights in such land shall be suspended accordingly:

Provided further that when any portion of the land specified in any such order ceases to be reasonably fit for cultivation or to yield any produce of substantial value, the order shall, when the Collector, in writing, so directs, cease to operate as to that portion.

(2) The decision of the Collector as to whether for the purposes of the proviso to sub-section (1) of this section, any land is or is not reasonably fit for cultivation or does or does not yield any produce of substantial value shall be final.

101-C. (1) When any order has been made under the proviso to sub-section (1) of section 101 B, the land-owners (or any of them) in whom, but for such order, the rights in the land specified therein, would vest, may apply in writing, to the Collector to forthwith transfer the rights, the transfer of which has been suspended by such order, upon payment of compensation for the same.

Application for immediate transfer of rights reserved under the proviso to sub-section

(2) When an application under sub-section (1) is made, the Collector shall—

(1) of section 101 B upon payment of compensation, and procedure thereupon. Award of compensation and extinguishment of rights thereby.

- (a) fix a day for the hearing of the application;
- (b) cause notice of the application, and of the day fixed for the hearing thereof, to be served on, or proclaimed for the information of, all persons recorded as having rights in the land specified in the order made under the proviso to sub-section (1) of section 101 B, and all other persons interested or claiming to be interested therein;
- (c) upon the day so fixed for hearing, or any day to which the hearing may be adjourned, inquire into the rights in the land and award compensation in respect of all rights found established therein, to the persons severally entitled thereto;

101-F. For the purposes of sections 101 A, 101 B and 101 C, respectively, the expression "Collector" shall be deemed to include any Revenue-officer appointed by the Local Government to perform all or any of the functions of a Collector under any of the provisions thereof.

Meaning of the expression "Collector" in sections 101-A 101-B and 101-C.

102. Subject to any rules which the Financial Commissioner may make in this behalf, survey-marks shall be erected and kept in repair by or at the cost of the persons interested in the land for the indication of the limits of which they are required:

Cost of erection and repair of survey-marks.

Provided that the Local Government may in any case direct that the cost of erection shall be borne by the Government or be paid out of the proceeds of the village-officers' cess.

103. (1) If the persons interested in the land fail to erect or repair a survey-mark within thirty days from the date of their being required by a Revenue-officer to do so, the Revenue-officer may cause it to be erected or repaired.

Recovery of cost incurred by the Government.

(2) Where the Revenue-officer causes a survey-mark to be erected or repaired, he shall, subject to any rules or direction under the last foregoing section, apportion the cost among the persons interested in the land in such manner as he deems just and certify the same to the Collector.

(3) The Collector may recover the cost as if it were an arrear of land-revenue.

104. Any Revenue-officer, and any person acting under the orders of a Revenue-officer, may, in the discharge of any duty under this Act, enter upon and survey land and erect survey-marks thereon and demarcate the boundaries thereof, and do all other acts necessary for the proper performance of that duty.

Power of Revenue-officers to enter on land for purposes of survey and demarcation.

105. (1) When any land is being surveyed in pursuance of rules under section 46, clause (c), any Revenue-officer directing the survey may, by notice or proclamation, require all persons having rights or interests in the land to indicate, within a specified time, by temporary marks of a kind to be described in the notice or proclamation, the limits of those rights or interests.

Surveys for purpose of preparation of records.

(2) If a person to whom the notice or proclamation is addressed fails to comply with the requisition, he shall be liable at the discretion of the Revenue-officer to fine which may extend to ten rupees.

106. (1) For the purposes of the survey of any land in pursuance of rules under section 46, clause (c), the land-owners shall be bound to provide fit persons to act as flagholders and chainmen,

Provision of flagholders and chainmen for those surveys.

(2) If the land-owners fail to provide such persons or to provide them in sufficient number, such other persons as a Revenue-officer considers necessary may be employed and the cost of employing them recovered from the land-owners as if it were an arrear of land-revenue.

Professional surveys.

107. (1) If it is necessary to make a survey by other agency than that of Revenue-officers or village-officers, the Local Government may publish a notification stating—

- (a) the local area to be surveyed and the nature of the survey;
- (b) the names or official designation of the officers by whom the survey is to be made; and
- (c) the kind of survey marks to be erected by those officers.

(2) From the date of the notification the officers specified therein, and the persons acting under their orders, shall have for the purposes of the survey the powers conferred on Revenue-officers by section 104.

Penalty for destruction, injury or removal of survey-marks.

108. (1) If any person wilfully destroys or injures or without lawful authority removes a survey-mark lawfully erected, he may be ordered by a Revenue-officer to pay such fine not exceeding fifty rupees for each mark so destroyed, injured or removed as may, in the opinion of the Revenue-officer, be necessary to defray the expense of restoring the same and of rewarding the person, if any, who gave information of the destruction, injury or removal.

(2) The imposition of a fine under this section shall not bar a prosecution under section 434 of the Indian Penal Code.

XLV of 1860

Report of destruction or removal of or injury to surveys marks.

109. Every village-officer of an estate shall be legally bound to furnish a Revenue-officer with information respecting the destruction or removal of, or any injury done to, any survey-mark lawfully erected in the estate.

CHAPTER IX.

PARTITION.

Effect of partitions of estates and tenancies on joint liability for revenue, and rent.

110. (1) A partition of land, either under this Chapter or otherwise, shall not, without the express consent of the Financial Commissioner, affect the joint liability of the land or of the land-owners thereof for the revenue payable in respect of the land, or operate to create a new estate, and, if any conditions are attached to that consent, those conditions shall be binding on the parties to the partition.

(2) A partition of a tenancy shall not, without the express consent of the landlord, affect the joint liability of the co-sharers therein for the payment of the rent thereof.

Application for partition.

111. Any joint owner of land, or any joint tenant of a tenancy in which a right of occupancy subsists, may apply to a Revenue-officer for partition of his share in the land or tenancy, as the case may be, if—

- (a) at the date of the application the share is recorded under Chapter IV as belonging to him, or
- (b) his right to the share has been established by a decree which is still subsisting at that date, or

- (c) a written acknowledgment of that right has been executed by all persons interested in the admission or denial thereof.

112. Notwithstanding anything in the last foregoing section—

- (1) places of worship and burial-grounds held in common before partition shall continue to be so held after partition, unless the parties otherwise agree among themselves and record their agreement and file it with the Revenue-officer;
- (2) partition of any of the following properties, namely:—
- (a) any embankment, water-course, well or tank, and any land on which the supply of water to any such work may depend,
- (b) any grazing-ground, and
- (c) any land which is occupied as the site of a town or village and is assessed to land-revenue,

Restrictions and limitations on partition.

may be refused if, in the opinion of the Revenue-officer, the partition of such property is likely to cause inconvenience to the co-sharers, or other persons directly or indirectly interested therein, or to diminish the utility thereof to those persons;

- (3) the fact that a partition on the application of a joint owner of land would render necessary the severance into two or more parts of the land comprised in the tenancy of a tenant having a right of occupancy may, unless the tenant assents to the severance, be a sufficient reason for the disallowance of the partition in so far as it would affect that tenancy; and
- (4) the fact that the landlord objects to the partition of a tenancy may be sufficient reason for the absolute disallowance of the partition thereof.

113. The Revenue-officer, on receiving the application under section 111; shall, if it is in order and not open to objection on the face of it, fix a day for the hearing thereof, and—

Notice of application for partition.

- (a) cause notice of the application and of the day so fixed to be served on such of the recorded co-sharers as have not joined in the application, and, if the share of which partition is applied for is a share in a tenancy, on the landlord also; and
- (b) if he thinks fit, cause the notice to be served on, or proclaimed for the information of, any other persons whom he may deem to be directly or indirectly interested in the application.

114. On the day fixed for the hearing, or on any day to which the hearing may be adjourned, the Revenue-officer shall ascertain whether any of the other co-sharers desire the partition of their shares also, and, if any of them so desire, he shall add them as applicants for partition.

Addition of parties to application.

Absolute dis-
allowance of
partition.

115. After examining such of the co-sharers and other persons as may be present on that day, the Revenue-officer may, if he is of opinion that there is good and sufficient cause why partition should be absolutely disallowed, refuse the application, recording the grounds of his refusal.

Procedure
on admission
of applica-
tion.

116. If the Revenue-officer does not refuse the application under the last foregoing section, he shall ascertain the questions, if any, in dispute between any of the persons interested distinguishing between—

- (a) questions as to title in the property of which partition is sought; and
- (b) questions as to the property to be divided, or the mode of making the partition.

Disposal of
questions as
to title in
property to
be divided.

117. (1) When there is a question as to title in any of the property of which partition is sought, the Revenue-officer may decline to grant the application for partition until the question has been determined by a competent Court, or he may himself proceed to determine the question as though he were such a Court.

(2) Where the Revenue-officer himself proceeds to determine the question, the following rules shall apply, namely:—

- (a) If the question is one over which a Revenue Court has jurisdiction, the Revenue-officer shall proceed as a Revenue Court under the provisions of the Punjab Tenancy Act, 1887.
- (b) If the question is one over which a Civil Court has jurisdiction, the procedure of the Revenue-officer shall be that applicable to the trial of an original suit by a Civil Court, and he shall record a judgment and decree containing the particulars required by the Code of Civil Procedure to be specified therein.
- (c) An appeal shall lie from the decree of the Revenue-officer under clause (b) as though that decree were a decree of a *Subordinate* Judge in an original suit.
- (d) Upon such an appeal being made, the *District* Court or *High* Court, as the case may be, may issue an injunction to the Revenue-officer requiring him to stay proceedings pending the disposal of the appeal.
- (e) From the appellate decree of a *District* Court upon such an appeal, a further appeal shall lie to the *High* Court if such a further appeal is allowed by the law for the time being in force.

XVI of 1887,

V of 1908,

Disposal of
other
questions

118. (1) When there is a question as to the property to be divided, or the mode of making a partition, the Revenue-officer shall, after such inquiry as he deems necessary, record an order stating his decision on the question and his reasons for the decision.

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(2) An appeal may be preferred from an order under sub-section (1) within fifteen days from the date thereof, and, when such an appeal is preferred and the institution thereof has been certified to the Revenue-officer by the authority to whom the appeal has been preferred the Revenue-officer shall stay proceedings pending the disposal of the appeal.

(3) If an applicant for partition is dissatisfied with an original or appellate order under this section, and applies for permission to withdraw from the proceedings in so far as they relate to the partition of his shares, he shall be permitted to withdraw therefrom on such terms as the Revenue-officer thinks fit.

(4) When an applicant withdraws under the last foregoing sub-section, the Revenue-officer may, where the other applicants, if any, desire the continuance of the proceedings, continue them in so far as they relate to the partition of the shares of those other applicants.

119. When any such property as is referred to in section 112, clause (2), is excluded from partition, the Revenue-officer may determine the extent and manner to and in which the co-sharers and other persons interested therein may make use thereof, and the proportion in which expenditure incurred thereon and profits derived therefrom, respectively, are to be borne by and divided among those persons or any of them. Administration of property excluded from partition.

120. (1) The amount of revenue to be paid in respect of each of the holdings into which land has been divided on a partition, and the amount of rent to be paid in respect of each of the portions into which a tenancy has been so divided, shall be determined by the Revenue-officer making the partition. Distribution of revenue and rent after partition.

(2) The determination of the Revenue-officer as to the revenue to be paid in respect of each holding shall, where the estate in which the holding is situate is subject to a fixed assessment, be deemed to be an order under section 56, sub-section (1).

(3) Where new estates have been created at a partition and the land-revenue has been fraudulently or erroneously distributed among them, the Local Government may, within twelve years from the time of discovery of the fraud or error, order a new distribution of the land-revenue among the several estates, on an estimate of the assets of each estate at the time of the partition, to be made conformably to the best evidence and information procurable respecting the same.

121. When a partition is completed, the Revenue-officer shall cause an instrument of partition to be prepared, and the date on which the partition is to take effect to be recorded therein. Instrument of partition.

122. An owner or tenant to whom any land or portion of a tenancy, as the case may be, is allotted in proceedings for partition shall be entitled to possession thereof as against the other parties to the proceedings and their legal representatives, and a Revenue-officer shall, on application made to him for the purpose by any Delivery of possession of property allotted on partition.

such owner or tenant at any time within three years from the date recorded in the instrument of partition under the last foregoing section, give effect to that instrument so far as it concerns the applicant as if it were a decree for immoveable property.

Affirmation of partitions privately effected.

123. (1) In any case in which a partition has been made without the intervention of a Revenue-officer, any party thereto may apply to a Revenue-officer for an order affirming the partition.

(2) On receiving the application, the Revenue-officer shall inquire into the case, and, if he finds that the partition has in fact been made, he may make an order affirming it and proceed under sections 119, 120, 121 and 122, or any of those sections, as circumstances may require, in the same manner as if the partition had been made on an application to himself under this Chapter.

Power to make rules as to costs of partitions.

124. The Financial Commissioner may make rules for determining the costs of partitions under this Chapter and the mode in which such costs are to be apportioned.

Re-distribution of land according to custom.

125. When by established custom any land in an estate is subject to periodical re-distribution a Revenue-officer may, on the application of any of the land-owners, enforce the re-distribution according to the custom, and for this purpose may exercise all or any of the powers of a Revenue-officer in proceedings for partition.

Officers who may be empowered to act under this Chapter.

126. The Revenue-officer by whom proceedings may be taken under this Chapter shall be a Revenue-officer of a class not below that of Assistant Collector of the first grade.

CHAPTER X.

ARBITRATION.

Power to refer to arbitration.

127. (1) Any Revenue-officer may, with the consent of the parties refer to arbitration any dispute arising before him in any matter under this Act.

(2) A Collector or any Assistant Collector of the first grade may, without the consent of the parties, refer to arbitration any dispute before him with respect to—

- (a) any matter of which an entry is to be made in any record or register under Chapter IV;
- (b) any matter relating to the distribution of an assessment under section 56;
- (c) the limits of any estate or of any holding, field or other portion of an estate; or
- (d) the property to be divided at a partition or the mode of making a partition.

Order of reference and contents thereof.

128. (1) In referring a dispute to arbitration a Revenue-officer shall make an order of reference, and specify therein the precise matter submitted to arbitration, the number of arbitrators which each party to the dispute is to nominate, the period within which arbitrators are to be nominated, and the period within which the award is to be delivered.

(2) The number of arbitrators which each party may nominate must be the same and must not exceed two.

(3) If from any cause arbitrators are not nominated, or an award is not delivered, within the period fixed therefor in the order of reference, the Revenue-officer may from time to time enlarge that period, or may cancel the order of reference.

129. (1) When an order of reference has been made, the parties may each nominate the number of arbitrators specified in the order, and the Revenue-officer shall nominate one other arbitrator. Nomination of arbitrators.

(2) The Revenue-officer may, for reasons to be recorded by him; make an order disallowing any nomination made by either party and requiring the party to make another nomination within a time to be specified in the order.

(3) An order under the last foregoing sub-section shall be final.

130. If an arbitrator nominated by a party dies, desires to be discharged or refuses or becomes incapable to act, the party may nominate another person in his stead. Substitution of arbitrators by parties.

131. In any of the following cases, namely:—

(a) if either of the parties fails to nominate an arbitrator under sub-section (1) of section 129 within the period fixed in the order of reference, or Nomination and substitution of arbitrators by Revenue-officers.

(b) if the nomination of an arbitrator has been disallowed under sub-section (2) of section 129, and another arbitrator is not nominated within the time specified in the order under that sub-section or, having been so nominated, his nomination is also disallowed, or

(c) if a party entitled to nominate an arbitrator in the place of another arbitrator under section 130 fails to nominate him within one week from the date of the communication to him of a notice requiring him to make the nomination, or

(d) if an arbitrator nominated by the Revenue-officer dies, desires to be discharged or refuses or becomes incapable to act,

the Revenue-officer may nominate a person as arbitrator.

132. (1) The Revenue-officer shall, on the application of the arbitrators, issue the same processes to the parties and witnesses whom the arbitrators desire to examine as he may issue in any proceeding under this Act before himself. Process for appearance before arbitrators.

(2) Any such party or witness shall be bound to appear before the arbitrators in obedience to a process issued under sub-section (1) either in person or by agent, as the arbitrators may require.

(3) The person attending in obedience to the process shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents, and

other things relating to any such matter as may be specified in the process.

Award of arbitrators and representatives thereof.

133. (1) The arbitrators shall make an award in writing under their hands concerning the matters referred to them for arbitration, and state therein their reasons therefor, and any arbitrator dissenting from the award made by a majority of the arbitrators shall state the grounds of his dissent.

(2) The arbitrators shall present the award to the Revenue-officer in person unless that officer permits them to present it by agent.

Procedure on presentation of award.

134. (1) When the award has been received, the Revenue-officer shall, if the parties are present, consider forthwith any objections which they may have to make thereto, and, if they are not present, fix a date for the consideration thereof.

(2) Where a date has been fixed for the consideration of an award, the Revenue-officer shall on that date, or on any subsequent date to which an adjournment may be made, hear any objections which the parties may have to make to the award.

(3) The Revenue-officer may also, if he thinks fit, question the arbitrators as to the grounds of their award.

Effect of award.

135. (1) The Revenue-officer may accept, modify or reject the award, recording his reasons for doing so in his decision respecting the dispute which was referred to arbitration.

(2) An appeal shall lie from the decision as if arbitrators had not been appointed.

CHAPTER XI.

SPECIAL JURISDICTION WITH RESPECT TO LAND.

Power to invest officers making records-of-rights or general re-assessments with powers of Civil Courts.

136. (1) The Local Government may, by order published in the official Gazette, invest any Revenue-officer making or specially revising records-of-rights in any local area in pursuance of a notification under section 32 or making a general re-assessment of land-revenue in any local area in pursuance of a notification under section 49 [or any Revenue-officer in a Colony], or any Revenue-officer to whose control that officer is subject, with all or any of the powers of any Court constituted under Punjab Courts Act, 1884, **XVII** of 1912, **V** of 1912, for the purpose of trying all or any specified classes of suits or appeals relating to land arising in the local area.

(2) The Local Government may cancel an order under subsection (1) wholly or in part.

(3) While an order or any part of an order under that subsection continues in force, the powers conferred thereby shall be exercised by the officer invested therewith and not otherwise.

(4) Any cases pending before that officer under the order or a subsisting part of the order at the time of cancellation thereof may be disposed of by him as if the order or that part of it continued in force, unless the Local Government directs, as it is hereby em-

powered to do, that those cases shall be transferred for disposal to the Courts by which they would have been disposed of if the order had not been published.

137. (1) The Local Government may by notification direct that the provisions of this Act with respect to the superintendence and control over Revenue-officers shall, subject to any modification of those provisions which the Local Government thinks fit, apply to any Revenue-officer, except the Financial Commissioner, who has been invested with the powers of Civil Court of any of the classes specified in clauses (a), (b), (c) and (d) of section 17 of the Punjab Courts Act, 1884, and that appeal shall lie from his decrees and orders to, and his decrees and orders be subject to revision by, a Revenue-officer invested under the last foregoing section with the powers of a Court which would be competent under the Punjab Courts Act, 1884, to hear appeals from, or revise, such decrees and orders if they had been made by a Court with the powers of which the Revenue-officer who made them has been invested.

Control over such officers and appeals from and revision of their decrees and orders.

XVIII of
1884.

XVIII of
1884.

(2) In the absence of any such notification, a Revenue-officer invested under the last foregoing section with the powers of any such Civil Court as aforesaid shall, with respect to the exercise of those powers, be deemed to be such a Civil Court for the purposes of the Punjab Courts Act, 1884.

XVIII of
1884.

CHAPTER XII.

SUPPLEMENTAL PROVISIONS.

Revenue Deposits.

138. (1) In either of the following cases, namely:—

- (a) when a headman or other land-owner, or an assignee of land-revenue, to whom any sum other than rent is payable on account of a liability under this Act, refuses to receive the sum from, or to grant a receipt therefor, the person by whom it is payable,
- (b) when the person by whom any such sum is payable is in doubt as to the headman or other land-owner, or the assignee of land-revenue, entitled to receive it,

Power to deposit certain sums other than rent.

that person may apply to a Revenue-officer for leave to deposit the sum in his office, and the Revenue-officer shall receive the deposit if, after examining the applicant, he is satisfied that there is sufficient ground for the application, and if the applicant pays the fee, if any, which may be chargeable on any notice to be issued of the receipt thereof.

(2) When a deposit has been so received, the liability of the depositor to the headman or other land-owner, or the assignee of land-revenue, for the amount thereof shall be discharged.

Procedure in case of deposit on account of a payment due to Government.

139. If the deposit purports to be made on account of any payment due to the Government, it may be credited accordingly.

Procedure in case of other deposits.

140. (1) A Revenue-officer receiving a deposit purporting to be made on any other account shall give notice of the receipt thereof to every person who he has reason to believe claims or is entitled to the deposit, and may pay the amount thereof to any person appearing to him to be entitled to the same, or may, if he thinks fit, retain the deposit pending the decision of a Civil Court as to the person so entitled.

(2) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under this section, but nothing in this sub-section shall prevent any person entitled to receive the amount of any such deposit from recovering it from a person to whom it has been paid by a Revenue-officer.

Execution of orders of Civil and Criminal Courts by Revenue-officers.

Orders of Civil and Criminal Courts for execution of processes against land or the produce thereof to be addressed to a Revenue-officer.

141. Orders issued by any Civil or Criminal Court for the attachment, sale or delivery of any land or interest in land, or for the attachment or sale of the produce of any land, shall be addressed to the Collector or such Revenue-officer as the Collector may appoint in this behalf, and be executed by the Collector or that officer in accordance with the provisions of the law applicable to the Court issuing the orders and with any rules consistent therewith made by the Financial Commissioner with the concurrence of the High Court and the previous sanction of the Local Government.

Attachment of assigned land-revenue.

142. (1) Notwithstanding anything in any other enactment for the time being in force, an order issued by any Court for the attachment of assigned land-revenue shall require the person by whom the revenue is payable to pay it to the Collector, and the Collector to hold it subject to the further orders of the Court.

(2) A payment to the Collector under sub-section (1) shall be an effectual discharge to the person making it.

Preservation of attached Produce.

Preservation of attached produce.

143. (1) The attachment of the produce of any land in pursuance of an order of any Court or other authority shall not prevent the person to whom the produce belongs from reaping, gathering or storing it or doing any other act necessary for its preservation.

(2) The attaching officer shall do or cause to be done all acts necessary for the preservation of the produce if the person to whom it belongs fails to do so.

(3) When sale of produce follows on its attachment, the purchaser shall be entitled, by himself or by any person appointed by

him in this behalf, to enter on the place where the produce is and do all that is necessary for the purpose of preserving and removing it.

Division of Produce.

144. In either of the following cases, namely:—

Division of
produce.

- (a) where land-revenue is paid by division or appraisement of the produce,
- (b) where a superior and an inferior land-owner, or two or more share-holders in a holding or tenancy, are jointly interested in any produce, and either or any of the land-owners or tenants, as the case may be, desires the assistance of a Revenue-officer for the purpose of dividing or appraising the produce,

XVI of 1887. the provisions of the Punjab Tenancy Act, 1887, with respect to the division or appraisement of produce shall apply so far as they can be made applicable.

Miscellaneous.

145. (1) At any of the following times, namely:—

Village-
cesses.

- (a) when a record-of-rights is being made or specially revised for an estate,
- (b) when the local area in which an estate is situate is being generally re-assessed and before the assessment has been confirmed,
- (c) at any other time on an order made with respect to any estate by the Local Government,

a Revenue-officer shall prepare a list of village-cesses, if any, levied in the estate which have been generally or specially approved by the Local Government or the title to which has, before the passing of this Act, been judicially established.

(2) *Repealed by Act XVII of 1896.*

(3) The Local Government may impose on the collection of any village-cess comprised in the list such conditions as to police or other establishments connected with the village, market or fair in or on account of which the cess is levied, as it thinks fit.

XXXVIII of
1920.

(4) The *Local Government* may declare whether any cess, contribution or due levied in an estate is or is not a village-cess.

XXXVIII
* 1920.

(5) A declaration of the *Local Government* under the last foregoing sub-section shall be conclusive, and shall not be liable to be questioned in any Court.

146. Where a superior land-owner is entitled to receive in Superior respect of any land from an inferior land-owner dues in kind or in land-owners' dues. cash of fluctuating quantity or amount, the Collector may—

- (a) on the application of both land-owners, or

(b) with the previous sanction of the Local Government, on the application of either of them,

commute those dues into a fixed percentage of the land-revenue payable by the inferior landowner in respect of the land.

Substitution
of service for
payment of
land-revenue.

147. (1) The Local Government may, with the previous sanction of the Governor-General in Council, authorise the remission of land-revenue in whole or in part in consideration of the person liable therefor undertaking to render in lieu thereof such public service as may be specified in an agreement to be approved by the Local Government and executed by that person.

(2) The Local Government may, with the like sanction, cancel any remission authorised, and agreement made, under sub-section (1).

(3) If a landowner bound by an agreement under that sub-section to render public service in lieu of paying land-revenue fails to render the service to the satisfaction of the Collector, the Collector may determine the portion of the land-revenue remitted which is represented by the service in respect of which the landowner is in default, and, with the previous sanction of the Financial Commissioner, recover that portion as if it were an arrear of land-revenue due in respect of the land for the land-revenue whereof the service was substituted.

Recovery of
cost of as-
sessing
assigned
land-revenue.

148. (1) When land of which the land-revenue has been assigned in whole or in part is re-assessed, the assignee shall be liable to pay such a share of the cost of making the re-assessment as the Financial Commissioner may determine to be just.

(2) That share may be recovered by the Collector by deduction of the amount thereof from the land-revenue due to the assignee.

Penalty for
failure to
attend
limits of
estate in
obedience to
order of
Revenue-
officers.

149. If a person required by a summons, notice, order or proclamation proceeding from a Revenue-officer to attend at a certain time and place within the limits of the estate in which he ordinarily resides, or in which he holds or cultivates land, fails to comply with the requisition, he shall be liable at the discretion of the Revenue-officer to a fine which may extend to fifty rupees.

Prevention of
encroachment
on common
lands.

150. (1) Where land which has been reserved for the common purposes of the co-sharers therein has been encroached on by any co-sharer, a Revenue-officer may, on the application of any other co-sharer, eject the encroaching co-sharer from the land and, by order proclaimed in manner mentioned in section 22, forbid repetition of the encroachment.

(2) The proceedings of the Revenue-officer under sub-section (1) shall be subject to any decree or order which may be subsequently passed by any Court of competent jurisdiction.

151. (1) Any record or paper which a village-officer is required by law, or by any rule under this Act, to prepare or keep shall be deemed to be the property of the Government.

Papers kept by village-officers to be deemed public documents.

of 1872.

(2) A village-officer shall, with respect to any such record or paper in his custody, be deemed for the purposes of the Indian Evidence Act, 1872, to be a public officer having the custody of a public document which any person has a right to inspect.

152. (1) A Revenue-officer may give and apportion the costs of any proceeding under this Act in any manner he thinks fit.

Costs.

(2) But if he orders that the cost of any such proceeding shall not follow the event, he shall record his reasons for the order.

IX of 1908.
Punjab Act
III of 1928.

153. In the computation of the period for an appeal from, or an application for the review of, an order under this Act the limitation therefor shall be governed by the Indian Limitation Act, 1908.

Computation of periods limited for appeals and applications for review.

154. (1) A Revenue-officer, or a person employed in a revenue office, shall not—

Restriction on Revenue-officer's bidding at auctions or trading.

(a) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property which any Revenue-officer or Revenue-Court in the district in which he is employed has ordered to be sold, or,

(b) in contravention of any rules made by the Local Government in this behalf, engage in trade in that district.

VI of 1882.
Punjab Act
III of 1928.

(2) Nothing in sub-section (1) shall be deemed to preclude any person from becoming a member of a company incorporated under the Indian Companies Act, 1882, the Indian Companies Act, 1913, or other law.

155. (1) The Financial Commissioner may, in addition to the other rules which may be made by him under this Act, make rules consistent with this Act, and any other enactment for the time being in force—

Power to make rules.

(a) fixing the number and amount of the instalments, and the times and places and the manner, by, at and in which any sum other than rent or land-revenue which is payable under this Act or of which a record has been made thereunder is to be paid;

(b) fixing the dates on which profits are to be divisible by headmen or other persons by whom they are realized on behalf of co-sharers;

- (c) prescribing the fees to be charged for the service and execution of processes issued by Revenue-officers and Revenue Courts, the mode in which those fees are to be collected, the number of persons to be employed in the service and execution of those processes, and the remuneration and duties of those persons;
 - (d) regulating the procedure in cases where persons are entitled to inspect records of Revenue-officers, or records or papers in the custody of village-officers, or to obtain copies of the same, and prescribing the fees payable for searches and copies;
 - (e) prescribing forms for such books, entries, statistics and accounts as the Financial Commissioner thinks necessary to be kept, made or compiled in revenue-offices, or submitted to any authority;
 - (f) declaring what shall be the language of any of those offices and determining in what cases persons practising in those offices shall be permitted to address the presiding officers thereof in English; and
 - (g) generally for carrying out the purposes of this Act.
- (2) Until rules are made under clauses (a) and (b) of sub-section (1) the sums therein referred to shall be payable by the instalments at the times and places, and in the manner by, at and in which they are now payable.

(3) Rules made by the Financial Commissioner under this or any other section of this Act shall not take effect until they have been sanctioned by the Local Government.

IV of 1914.

Rules to be made after previous publication.

156. The power to make any rules under this Act is subject to the condition of the rules being made after previous publication.

Powers exercisable by the Financial Commissioner from time to time.

157. All powers conferred by this Act on the Financial Commissioner may be exercised from time to time as occasion requires.

Exclusion of Jurisdiction of Civil Courts.

Exclusion of jurisdiction of Civil Courts in matters within the jurisdiction of Revenue-officers.

158. Except as otherwise provided by this Act—

(1) a Civil Court shall not have jurisdiction in any matter which the Local Government or a Revenue-officer is empowered by this Act to dispose of, or take cognizance of the manner in which the Local Government or any Revenue-officer exercises any powers vested in it or him by or under this Act; and in particular—

(2) a Civil Court shall not exercise jurisdiction over any of the following matters, namely:—

(i) any question as to the limits of any land which has been defined by a Revenue-officer as land to which this Act does or does not apply;

- (ii) any claim to compel the performance of any duties imposed by this Act or any other enactment for the time being in force on any Revenue-officer, as such;
- (iii) any claim to the office of kanungo, zaildar, inamdar or village-officer, or in respect of any injury caused by exclusion from such office, or to compel the performance of the duties or a division of the emoluments thereof;
- (iv) any notification directing the making or revision of a record-of-rights;
- (v) the framing of a record-of-rights or annual record, or the preparation, signing or attestation of any of the documents included in such a record;
- (vi) the correction of any entry in a record-of-rights, annual record or register of mutations.
- (vii) any notification of the undertaking of the general re-assessment of a district or tahsil having been sanctioned by the Governor-General in Council;
- (viii) the claim of any person to be liable for an assessment of land-revenue or of any other revenue assessed under this Act;
- (ix) the amount of land-revenue to be assessed on any estate or to be paid in respect of any holding under this Act;
- (x) the amount of, or the liability of any person to pay, any other revenue to be assessed under this Act, or any cess; charge or rate to be assessed on an estate or holding under this Act or any other enactment for the time being in force;
- (xi) any claim relating to the allowance to be received by a landowner who has given notice of his refusal to be liable for an assessment, or any claim connected with, or arising out of, any proceeding taken in consequence of the refusal of any person to be liable for an assessment under this Act;
- (xii) the formation of an estate out of waste-land;
- (xiii) any claim to hold free of revenue any land, mills, fisheries or natural products of land or water;
- (xiv) any claim connected with, or arising out of, the collection by the Government, or the enforcement by the Government of any process for the recovery of land-revenue or any sum recoverable as an arrear of land-revenue;

- (xv) any claim to set aside, on any ground other than fraud, a sale for the recovery of an arrear of land-revenue or any sum recoverable as an arrear of land-revenue;
- (xvi) the amount of, or the liability of any person to pay any fees, fines, costs or other charges imposed under this Act;
- (xvii) any claim for partition of an estate, holding or tenancy, or any question connected with, or arising out of, proceedings for partition, not being a question as to title in any of the property of which partition is sought;
- (xviii) any question as to the allotment of land on the partition of an estate, holding or tenancy, or as to the distribution of land subject by established custom to periodical re-distribution, or as to the distribution of land-revenue on the partition of an estate or holding or on a periodical re-distribution of land, or as to the distribution of rent on the partition of a tenancy;
- (xviii) (a) any question connected with or arising out of or Punjab Act relating to any proceedings for the determination of I of 1899. boundaries of estates subject to river action under sections 101 A, 101 B, 101 C and 101 D, respectively of Chapter VIII;
- (xix) any claim to set aside or disturb a division or appraisal of produce confirmed or varied by a Revenue-officer under this Act;
- (xx) any question relating to the preparation of a list of village-cesses or the imposition by the Local Government of conditions on the collection of such cesses;
- (xxi) any proceeding under this Act for the commutation of the dues of a superior landowner;
- (xxii) any claim arising out of the enforcement of an agreement to render public service in lieu of paying land-revenue; or
- (xxiii) any claim arising out of the liability of an assignee of land-revenue to pay a share of the cost of collecting or re-assessing such revenue, or arising out of the liability of an assignee to pay out of assigned land-revenue, or of a person who would be liable for land-revenue if it had not been released, compounded for, or redeemed, to pay on the land-revenue for which he would, but for such release, composition or redemption be liable, such a percentage for the remuneration of a zaildar, inamdar, or village-officer as may be prescribed by rules for the time being in force under this Act.

THE SCHEDULE.

(See section 2.)

ENACTMENTS REPEALED.

Number and year.	Title or subject of enactment.	Extent of repeal.
1	2	3
Act XXI of 1836 ..	Creation of new Zilas ..	So much as has not been repealed.
Act VI of 1867 ..	To enable the Lieutenant-Governor of the Punjab to alter the limits of existing districts in any part of the territories under his Government.	The whole.
Act VII of 1870 ..	The Court-fees Act, 1870..	In section 20, clause (i), the words "and Revenue," and the whole of section 23.
Act XXXIII of 1871 ..	The Punjab Land Revenue Act, 1871.	The whole.
Act IV of 1872 ..	The Punjab Laws Act, 1872	Section 21.
Act XVIII of 1884 ..	The Punjab Courts Act, 1884.	Chapter VI.
Regulation I of 1872 ..	The Punjab Frontier Regulation, 1872.	Rules 26 to 46 (both inclusive) comprising sections G, H, I and K of the Hazara Settlement Rules.

THE REVENUE RECOVERY ACT, 1890.

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6. Property liable to sale under this Act.
7. Saving of local laws relating to revenue.
8. Recovery in British India of certain public demands arising beyond British India.

THE SCHEDULE.

ACT No. I OF 1890.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 14th
February, 1890.)

AS AMENDED BY ACT XIII OF 1898, ACT IV OF 1914;

ACT X OF 1914.

AN ACT TO MAKE BETTER PROVISIONS FOR RECOVER-
ING CERTAIN PUBLIC DEMANDS.

WHEREAS it is expedient to make better provisions for re-
covering certain public demands: It is hereby enacted as
follows:—

1. (1) This Act may be called the Revenue Recovery Act, Title, extent
1890. and com-
mencement.

XIII of 1898.
I of 1914.

(2) It extends to the whole of British India, inclusive of
British Baluchistan.

2. In this Act, unless there is something repugnant in the Definition.
subject or context,—

(1) "district" includes a presidency-town;

(2) "Collector" means the chief officer in charge of the land-
revenue administration of a district; and

(3) "defaulter" means a person from whom an arrear of
land-revenue, or a sum recoverable as an arrear of land-revenue, is
due and includes a person who is responsible as surety for the
payment of any such arrear or sum.

3. (1) Where an arrear of land-revenue, or a sum recoverable Recovery of
as an arrear of land-revenue, is payable to a Collector by a de- public de-
faulter being or having property in a district other than that in mands by
which the arrear accrued or the sum is payable, the Collector may enforcement
send to the Collector of that other district a certificate in the form of process in
as nearly as may be of the schedule, stating— other dis-
tricts than
those in
which they
become pay-
able.

(a) the name of the defaulter and such other particulars as
may be necessary for his identification, and

(b) the amount payable by him and the account on which
it is due.

1914.

(2) The certificate shall be signed by the Collector making
it, or by any officer, to whom such Collector may, by order in writ-
ing, delegate this duty and, save as otherwise provided by this Act,
shall be conclusive proof of the matters therein stated.

(3) The Collector of the other district shall, on receiving the
certificate, proceed to recover the amount stated therein as if it
were an arrear of land-revenue which had accrued in his own dis-
trict.

Remedy available to person denying liability to pay amount recovered under last foregoing section.

4. (1) When proceedings are taken against a person under the last foregoing section for the recovery of an amount stated in a certificate, that person may, if he denies his liability to pay the amount or any part thereof and pays the same under protest made in writing at the time of payment and signed by him or his agent, institute a suit for the repayment of the amount or the part thereof so paid.

(2) A suit under sub-section (1) must be instituted in a Civil Court having jurisdiction in the local area in which the office of the Collector who made the certificate is situate, and the suit shall be determined in accordance with the law in force at the place where the arrear accrued or the liability for the payment of the sum arose.

(3) In the suit the plaintiff may, notwithstanding anything in the last foregoing section, but subject to the law in force the place aforesaid, give evidence with respect to any matter stated in the certificate.

Recovery by Collector of sums recoverable as arrears of revenue by other public officers or by local authorities.

5. Where any sum is recoverable as an arrear of land-revenue by any public officer other than a Collector or by any local authority, the Collector of the district in which the office of that officer or authority is situate shall, on the request of the officer or authority, proceed to recover the sum as if it were an arrear of land-revenue which had accrued in his own district, and may send a certificate of the amount to be recovered to the Collector of another district under the foregoing provisions of this Act, as if the sum were payable to himself.

Property liable to sale under this Act.

6. (1) When the Collector of a district receives a certificate under this Act, he may issue a proclamation prohibiting the transfer or charging of any immoveable property belonging to the defaulter in the district.

(2) The Collector may at any time, by order in writing withdraw the proclamation, and it shall be deemed to be withdrawn when either the amount stated in the certificate has been recovered or the property has been sold for the recovery of that amount.

(3) Any private alienation of the property or of any interest of the defaulter therein, whether by sale, gift, mortgage or otherwise, made after the issue of the proclamation and before the withdrawal thereof, shall be void as against the Government, and any person who may purchase the property at a sale held for the recovery of the amount stated in the certificate.

(4) Subject to the foregoing provisions of this section, when proceedings are taken against any immoveable property under this Act for the recovery of an amount stated in a certificate, the interests of the defaulter alone therein shall be so proceeded against, and no incumbrances created, grants made or contracts entered into by him in good faith shall be rendered invalid by reason only of proceedings being taken against those interests.

THE PUNJAB TENANCY ACT, 1887.

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AS TO LOCAL ACT ACT. No. XVI OF 1887.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 22nd September, 1887.)

AS AMENDED BY ACT XII OF 1891, ACT XIII OF 1900, PUNJAB ACT I OF 1906, PUNJAB ACT III OF 1912, ACT IV OF 1914, PUNJAB ACT XI OF 1925, PUNJAB ACT II OF 1927, PUNJAB ACT V OF 1929.

AN ACT TO AMEND THE LAW RELATING TO THE TENANCY OF LAND IN THE PUNJAB:

WHEREAS it is expedient to amend the law relating to the tenancy of land in the Punjab; it is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Punjab Tenancy Act, 1887; Title, extent and commencement.

(2) It extends to the whole of the territories (including the pargana of Spiti) for the time being administered by the Lieutenant-Governor of the Punjab, except the Hazara district, and

(3) It shall come into force on such day as the Local Government, with the previous sanction of the Governor-General in Council, may by notification appoint in this behalf.

2. & 3. Repealed by Act XII of 1891.

4. In this Act, unless there is something repugnant in the subject or context,— Definitions.

(1) "land" means land which is not occupied as the site of any building in a town or village and is occupied or has been let for agricultural purposes or for purposes subservient to agriculture, or for pasture, and includes the sites of buildings and other structures on such land:

(2) "pay," with its grammatical variations and cognate expressions, includes, when used with reference to rent, "deliver" and "render," with their grammatical variations and cognate expressions:

(3) "rent" means whatever is payable to a landlord in money, kind or service by a tenant on account of the use or occupation of land held by him:

(4) "arrear of rent" means rent which remains unpaid after the date on which it becomes payable:

(5) "tenant" means a person who holds land under another person, and is, or but for special contract would be, liable to pay rent for that land to that other person; but it does not include—

(a) an inferior land-owner, or

(b) a mortgagee of the rights of a land-owner, or

- (c) a person to whom a holding has been transferred, or an estate or holding has been let in farm, under the Punjab Land Revenue Act, 1887, for the recovery of an arrear of land-revenue or of a sum recoverable as such an arrear, or ^{XVII of 1887.}
- (d) a person who takes from the Government a lease of unoccupied land for the purpose of sub-letting it:
- (6) "landlord" means a person under whom a tenant holds land, and to whom the tenant is, or but for a special contract would be, liable to pay rent for that land;
- (7) "tenant" and "landlord" include the predecessors and successors in interest of a tenant and landlord, respectively;
- (8) "tenancy" means a parcel of land held by a tenant of a landlord under one lease or one set of conditions;
- (9) "estate", "land-owner" and "holding" have the meanings, respectively, assigned to those words in the Punjab Land Revenue Act, 1887. ^{XVII of 1887.}
- (10) "land-revenue" means land-revenue assessed under any law for the time being in force or assessable under the Punjab Land Revenue Act, 1887, and includes—
- (a) any rate imposed in respect of the increased value of land due to irrigation, and
- (b) any sum payable in respect of land, by way of quit-rent or of commutation for service, to the Government or to a person to whom the Government has assigned the right to receive the payment:
- (11) "rates and cesses" means rates and cesses which are primarily payable by land-owners, and includes—
- (a) *Repealed by Act XII of 1891;*
- (b) the local rate, if any, payable under the Punjab District Boards Act, 1883, and any fee leviable under section 33 of that Act from land-owners for the use of or benefits derived from such works as are referred to in section 20, clauses (i) and (j), of that Act; ^{XX of 1882.}
- (c) any annual rate chargeable on owners of lands under section 59 of the Northern India Canal and Drainage Act, 1873; ^{VIII of 1873.}
- (d) the zaildari and village-officer's cesses; and
- (e) sums payable on account of village-expenses.
- (12) "village-cess" includes any cess, contribution or due which is customarily leviable within an estate and is neither a payment for the use of private property or for personal service nor imposed by or under any enactment for the time being in force:
- (13) "village-officer" means a chief-headman, headman or patwari:
- (14) "Revenue-officer" or "Revenue Court," in any provision of this Act, means a Revenue-officer or Revenue Court having

authority under this Act to discharge the functions of a Revenue-officer or Revenue Court, as the case may be, under that provision:

(15) "jagirdar" includes any person, other than a village-servant, to whom the land-revenue of any land has been assigned in whole or in part by the Government or by an officer of the Government:

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1879.

(16) "legal practitioner" means any legal practitioner within the meaning of the Legal Practitioners Act, 1879, except a mukhtar:

(17) "agricultural year" means the year commencing on the sixteenth day of June, or on such other date as the Local Government may by notification appoint for any local area:

(18) "notification" means a notification published by authority of the Local Government in the official Gazette: and

(19) "improvement" means, with reference to a tenancy, any work which is suitable to the tenancy and consistent with the conditions on which it is held, by which the value of the tenancy has been and continues to be increased, and which, if not executed on the tenancy, is either executed directly for its benefit, or is, after execution, made directly beneficial to it:

Explanation I.—It includes among other things,—

- (a) the construction of wells and other works for the storage or supply of water for agricultural purposes;
- (b) the construction of works for drainage and for protection against floods;
- (c) the planting of trees, the reclaiming, enclosing, levelling and terracing of land for agricultural purposes and other works of a like nature;
- (d) the erection of buildings required for the more convenient or profitable cultivation of a tenancy; and
- (e) the renewal or reconstruction of any of the foregoing works, or such alterations therein, or additions thereto, as are not of the nature of mere repairs and as durably increase their value;

But it does not include such clearances, embankments, levelings, enclosures, temporary wells and water-channels as are made by tenants in the ordinary course of cultivation and without any special expenditure, or any other benefit accruing to land from the ordinary operations of husbandry;

Explanation II.—A work which benefits several tenancies may be deemed to be, with respect to each of them, an improvement;

Explanation III.—A work executed by a tenant is not an improvement if it substantially diminishes the value of any other part of his landlord's property.

(20) "Muqarraridar" means any person who holds land in the Attock district and who, on the date of the commencement of the Punjab Tenancy (Amendment) Act, 1925, was recorded in the revenue records as muqarraridar in respect of such land or who,

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after the said date, was so recorded with his consent and the consent of the proprietor of such land and includes the successors in interest of a muqarraridar.

CHAPTER II.

RIGHT OF OCCUPANCY.

Tenants having right of occupancy.

5. (1) A tenant—

- (a) who at the commencement of this Act has for more than two generations in the male line of descent through a grand-father or grand-uncle and for a period of not less than twenty years been occupying land paying no rent therefor beyond the amount of the land-revenue thereof and the rates and cesses for the time being chargeable thereon, or
- (b) who having owned land, and having ceased to be land-owner thereof otherwise than by forfeiture to the Government or than by any voluntary act, has, since he ceased to be land-owner, continuously occupied the land, or
- (c) who, in a village or estate in which he settled along with, or was settled by, the founder thereof as a cultivator therein, occupied land on the twenty-first day of October, 1868, and has continuously occupied the land since that date, or
- (d) who, being jagirdar of the estate or any part of the estate in which the land occupied by him is situate, has continuously occupied the land for not less than twenty years, or, having been such jagirdar, occupied the land while he was jagirdar and has continuously occupied it for not less than twenty years,

has a right of occupancy in the land so occupied, unless, in the case of a tenant belonging to the class specified in clause (c), the landlord proves that the tenant was settled on land previously cleared and brought under cultivation by, or at the expense of, the founder.

(2) If a tenant proves that he has continuously occupied land for thirty years and paid no rent therefor beyond the amount of the land-revenue thereof and the rates and cesses for the time being chargeable thereon, it may be presumed that he has fulfilled the conditions of clause (a) of sub-section (1).

(3) The words in that clause denoting natural relationship denote also relationship by adoption, including therein the customary appointment of an heir, and relationship by the usage of a religious community.

Right of occupancy of other tenants recorded as having the right before passing of Punjab Tenancy Act, 1808.

6. A tenant recorded in a record-of-rights sanctioned by the Local Government before the twenty-first day of October 1868, as a tenant having a right of occupancy in land which he has continuously occupied from the time of the preparation of that record, shall be deemed to have a right of occupancy in that land unless the contrary has been established by a decree of a competent Court in a suit instituted before the passing of this Act.

7. If the tenant has voluntarily exchanged the land, or any portion of the land, formerly occupied by him for other land belonging to the same landlord, the land taken in exchange shall be held to be subject to the same right of occupancy as that to which the land given in exchange would have been subject if the exchange had not taken place.

Right of occupancy in land taken in exchange.

8. Nothing in the foregoing sections of this Chapter shall preclude any person from establishing a right of occupancy on any ground other than the grounds specified in those sections.

Establishment of right of occupancy on grounds other than those expressly stated in Act.

9. No tenant shall acquire a right of occupancy by mere lapse of time.

Right of occupancy not to be acquired by mere lapse of time.

10. In the absence of a custom to the contrary no one of several joint owners of land shall acquire a right of occupancy under this chapter in land jointly owned by them.

Right of occupancy not to be acquired by joint owner in land held in joint ownership.

11. Notwithstanding anything in the foregoing sections of this chapter, a tenant who immediately before the commencement of this Act has a right of occupancy in any land under an enactment specified in any line of the first column of the following table shall, when this Act comes into force, be held to have, for all the purposes of this Act, a right of occupancy in that land under the enactment specified in the same line of the second column of the table:—

Continuance of existing occupancy-rights.

XXVIII of 1866.

PUNJAB TENANCY ACT, 1866.		THIS ACT		
FIRST COLUMN.		SECOND COLUMN.		
Section.	Clause.	Section.	Sub-section.	Clause.
5	(1)	5	(1)	(a)
5	(2)	5	(1)	(b)
5	(3)	5	(1)	(c)
5	(4)	5	(1)	(d)
6	..	6	..	..
8	..	8	..	..

CHAPTER III.

RENT.

Rents generally.

Respective rights of landlord and tenant to produce.

12. (1) The rent for the time being payable in respect of a tenancy shall be the first charge on the produce thereof.

(2) A tenant shall be entitled to tend, cut and harvest the produce of his tenancy in due course of husbandry without any interference on the part of his landlord.

(3) Except where rent is taken by division of the produce, the tenant shall be entitled to the exclusive possession of the produce.

(4) Where rent is taken by division of the produce—

(a) the tenant shall be entitled to the exclusive possession of the whole produce until it is divided;

(b) the landlord shall be entitled to be present at, and take part in, the division of the produce; and

(c) when the produce has been divided, the landlord shall be entitled to the possession of his share thereof.

Commutation and alteration of rent.

13. (1) Where rent is taken by any of the following methods, namely:—

(a) by division or appraisalment of the produce,

(b) by rates fixed with reference to the nature of the crops grown,

(c) by a rate on a recognised measure of area,

(d) by a rent in gross on the tenancy, or

(e) partly by one of the methods specified in clauses (a), (b) and (c) of this sub-section and partly by another or others of them,

one of those methods shall not be commuted in whole or in part into another without the consent of both landlord and tenant.

(2) In the absence of a contract or a decree or order of competent authority to the contrary, a tenant whose rent is taken by any of the methods specified in clauses (a), (b) and (c) of sub-section (1), or by the method specified in clause (d) of that sub-section, shall not be liable to pay for a tenancy rent at any higher rate, or of a higher amount, as the case may be, than the rate or amount payable in respect of the tenancy for the preceding agricultural year.

Payments for land occupied without consent of landlord.

14. Any person in possession of land occupied without the consent of the landlord shall be liable to pay for the use or occupation of that land at the rate of rent payable in the preceding agricultural year, or, if rent was not payable in that year, at such rate as the Court may determine to be fair and equitable.

Collection of rents of undivided property

15. When two or more persons are landlords of a tenant in respect of the same tenancy, the tenant shall not be bound to pay part of the rent of his tenancy to one of those persons and part to another.

Produce-rents.

16. Where rent is taken by division or appraisement of the produce, if the tenant removes any portion of the produce at such a time or in such a manner as to prevent the due division or appraisement thereof, or deals therewith in a manner contrary to established usage, the produce may be deemed to have been as full as the fullest crop of the same description on similar land in the neighbourhood for that harvest.

Presumption with respect to produce removed before division or appraisement.

17. If either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the division or appraisement of the produce, or if there is a dispute about the division or appraisement, a Revenue-officer may, on the application of either party, appoint such person as he thinks fit to be a referee to divide or appraise the produce.

Appointment of referee for division or appraisement.

18. (1) When a Revenue-officer appoints a referee under the last foregoing section, he may, in his discretion, give him instructions with respect to the association with himself of any other persons as assessors, the number, qualifications and selection of those assessors, and the procedure to be followed in making the division or appraisement.

Appointment of assessors and procedure of referee.

(2) The referee so appointed shall make the division or appraisement in accordance with any instructions which he may have received from the Revenue-officer under the last foregoing sub-section.

(3) Before making the division or appraisement the referee shall give notice to the landlord and the tenant of the time and place at which the division or appraisement will be made, but, if either the landlord or the tenant fails to attend either personally or by agent, the referee may proceed *ex-parte*.

(4) For the purpose of making the division or appraisement, the referee, with his assessors, if any, may enter upon any land on which or into any building in which the produce is.

19. (1) The result of the division or appraisement shall be recorded and signed by the referee, and the record shall be submitted to the Revenue-officer.

Procedure after division or appraisement.

(2) The Revenue-officer shall consider the record, and, after such further inquiry, if any, as he may deem necessary, shall make an order either confirming or varying the division or appraisement.

(3) The Revenue-officer shall also make such order as to the costs of the reference as he thinks fit.

(4) The costs may include the remuneration of the referee and of the assessors, if any, and may be levied from the applicant before the appointment of the referee subject to adjustment at the close of the proceedings.

20. Where the rent of a tenant having a right of occupancy in any land is a share of the produce, or of the appraised value thereof, with or without an addition in money, or is paid according to rates fixed with reference to the nature of the crops grown, or

Enhancement of produce-rents of occupancy tenants.

is a rent in gross payable in kind, the tenant shall be entitled to occupy the land at that rent:

Provided that, when the land or any part thereof previously not irrigated or flooded becomes irrigated or flooded, the rent payable in respect of the land or part may, subject to the provisions of this Act, be enhanced to the share or rates, or with reference to the rent in gross, as the case may be, paid by tenants, having a similar right of occupancy, for irrigated or flooded land of a similar description and with similar advantages.

Reduction of rents referred to in the last foregoing section.

21. When the land, or any part of the land, held by a tenant having a right of occupancy to whom the last foregoing section applies, ceases to be irrigated or flooded, the rent payable in respect of the land or part may be reduced to the share of rates, or with reference to the rent in gross, as the case may be, paid by tenants, having a similar right of occupancy, for unirrigated or unflooded land of a similar description and with similar advantages.

Cash-rents paid by tenants having right of occupancy.

Enhancement of cash rents of occupancy-tenants.

22. (1) Where a tenant having a right of occupancy pays his rent entirely by a cash-rate on a recognized measure of area or by a cash-rent in gross on his tenancy the rent may be enhanced on the ground that, after deduction therefrom of the land-revenue of, and the rates and cesses chargeable on, the tenancy, it is—

- (a) if the tenant belongs to the class specified in clause (a) of sub-section (1) of section 5, less than two annas per rupee of the amount of the land-revenue;
- (b) if he belongs to any of the classes specified in clauses (b), (c) and (d) of that sub-section, less than six annas per rupee of the amount of the land-revenue;
- (c) if he belongs to the class specified in section 6, or if his right of occupancy is established under section 8 and his rent is not regulated by contract, less than twelve annas per rupee of the amount of the land-revenue.

(2) In a case to which sub-section (1) applies, the rent may be enhanced to an amount not exceeding two, six or twelve annas per rupee of the amount of the land-revenue, as the case may be, in addition to the amount of the land-revenue of the tenancy and the rates and cesses chargeable thereon.

(3) For the purposes of this section a muqarraridar shall be deemed to be a tenant of the class specified in clause (a) of sub-section (1) of section 5.

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Reduction of rents referred to in the last foregoing section.

23. The rent payable by a tenant to whom the last foregoing section applies may be reduced on the ground that the productive powers of his tenancy have been decreased by a cause beyond his control.

General provisions relating to suits for enhancement or reduction of rent.

24. (1) A Revenue Court, on the suit of either landlord or tenant, may, subject to the provisions of this and other sections of this Act, enhance or reduce the rent of any tenant having a right of occupancy. Enhancement and reduction of rent by a suit.

XXVIII of
1868.

(2) Where a decree for the enhancement of the rent of such a tenant has been passed under the Punjab Tenancy Act, 1868, a suit for a further enhancement of his rent shall not lie till the expiration of five years from the date of the decree, unless in the meantime the local area in which the land comprised in the decree is situate has been generally reassessed and the revenue payable in respect of that land has been increased.

(3) Subject to the provisions of sub-section (2), a suit instituted for the enhancement of the rent of a tenant having a right of occupancy shall not be entertained in either of the following cases, namely:—

(a) if within the ten years next preceding its institution his rent has been commuted under section 13 or enhanced under this section,

(b) if within that period a decree has been passed under this Act dismissing on the merits a suit for the enhancement of his rent,

unless the land or some part of the land comprised in his tenancy, not having been irrigated or flooded at the time of such commutation, enhancement or decree, has become irrigated or flooded.

Punjab Act
XI of 1925.

(4) For the purposes of this section a muqarraridar shall be deemed to be a tenant having a right of occupancy.

25. In enhancing or reducing the rent of any land under the foregoing provisions of this chapter, the Court shall, within the limits prescribed by those provisions, enhance or reduce the rent to such an amount as it considers fair and equitable, but shall not in any case fix the rent at a sum less than the amount of the land-revenue of the land and the rates and cesses chargeable thereon. Discretion as to extent of enhancement or reduction.

26. (1) Unless the Court decreeing an enhancement of rent otherwise directs, the enhancement shall take effect from the commencement of the agricultural year next following the date of the decree. Time for enhancement or reduction to take effect.

(2) A Court decreeing a reduction of rent shall specify in the decree the date on and from which the reduction is to take effect.

Adjustment of rents expressed in terms of the land-revenue.

27. (1) Where the rent of a tenancy is the whole or a share of the land-revenue thereof, with or without an addition in money, kind or service, and the land-revenue of the holding in which the tenancy is situate is altered, a Revenue-officer having authority under section 56 of the Punjab Land-revenue Act, 1887, to determine the land-revenue payable in respect of the several Adjustment of rents expressed in terms of the land revenue.

XVII of 1887

holdings, comprised in the estate in which the tenancy is situate shall determine also the amount of the land-revenue of the tenancy, or the proportionate share thereof, payable by the tenant as rent.

(2) Where an addition referred to in sub-section (1) is a percentage fixed with reference to the land-revenue of the tenancy, or the whole or a share of the rates and cesses chargeable thereon, or both, the Revenue-officer shall in like manner from time to time alter the amount of the addition in proportion to any alteration of such land-revenue or rates and cesses.

(3) The sum or sums determined under the foregoing sub-sections, together with any addition previously payable other than the additions referred to in sub-section (2), shall be the rent payable in respect of the tenancy until there is again an alteration of the land-revenue thereof or of the rates and cesses chargeable thereon or until the rent is enhanced by a suit under this Act.

(4) An alteration of rent under this section shall not be deemed an enhancement or reduction of rent within the meaning of this Act.

(5) For the purposes of this section a muqarraridar shall be deemed to be a tenant having a right of occupancy.” Punjab Act
XI of 1925,

Adjustment of rents paid by occupancy-tenants in Attock district.

Adjustment
of rents paid
by occu-
pancy
tenants in
Attock
district.

27-A. (1). Where a tenant having a right of occupancy in land in the Attock District pays wholly or partly in cash a rent not falling within the scope of section 27 and the land revenue of the holding in which the tenancy is situated is altered— Punjab Act
XI of 1925.

a Revenue-officer having authority under section 56 of the Punjab Land Revenue Act, 1887, to determine the land revenue payable in respect of the several holdings comprised in the estate in which the tenancy is situate, may, by written order, and whether the rent was fixed by agreement or otherwise, and either upon the application of such tenant, or his landlord, or of his own motion increase or diminish such rent if wholly payable in cash, or such portion thereof as is payable in cash, to such extent as appears to the Revenue-officer to be proper, having regard to the matters specified in sub-section (2).

(2) In increasing or diminishing the rent of a tenancy under the provisions of sub-section (1) the Revenue-officer shall, for the purpose of deciding the extent of such increase or diminution take into consideration only—

- (i) the land-revenue of and the rates and cesses chargeable on the tenancy before the land-revenue of the holding in which it is situated, was altered;
- (ii) the land-revenue of and the rates and cesses chargeable on the tenancy after such alteration; and

(iii) the methods by which the assessments of the land-revenue in force before and after such alteration were calculated and distributed over the several holdings comprised in the estate in which the tenancy is situated.

(3) The rent determined as aforesaid shall be the rent payable in respect of the tenancy until there is again an alteration of the land-revenue thereof or of the rates or cesses chargeable thereon, or until the rent is enhanced or reduced by a suit under this Act.

(4) For the purposes of this section a muqarraridar shall be deemed to be a tenant having a right of occupancy.

(5) An alteration of rent under this section shall not be deemed an enhancement or reduction of rent within the meaning of this Act.

Alteration of rent on alteration of area.

28. (1) Every tenant shall—

(a) be liable to pay additional rent for all land proved to be in excess of the area for which rent has been previously paid by him, unless it is proved that the excess is due to the addition to his tenancy of land which, having previously belonged to the tenancy, was lost by diluvion or otherwise without any reduction of the rent being made; and

(b) be entitled to an abatement of rent in respect of any deficiency proved to exist in the area of his tenancy as compared with the area for which rent has been previously paid by him, unless it is proved that the deficiency is due to the loss of land which was added to the area of the tenancy by alluvion or otherwise, and that an addition has not been made to the rent in respect of the addition to the area.

Alteration of
rent on alter-
ation of area.

(2) In determining the area for which rent has been previously paid, the Court shall have regard to the following, among other matters, namely:—

(a) the origin and conditions of the tenant's occupancy, for instance, whether the rent was a rent in gross for the entire tenancy;

(b) whether the tenant has been allowed to hold additional land in consideration of an addition to his total rent or otherwise with the knowledge and consent of the landlord; and

(c) the length of time during which there has been no dispute as to rent or area.

(3) In adding to or abating rent under this section, the Court shall add to or abate the rent to such an amount as it deems to be fair and equitable, and shall specify in its decree the date on and from which the addition or abatement is to take effect.

(4) An addition to or abatement of rent under this section shall not be deemed an enhancement or reduction of rent within the meaning of this Act.

Remission.

Remission of
rent by
Courts
decreasing
arrears.

29. Notwithstanding anything in the foregoing sections of this chapter, if it appears to a Court making a decree for an arrear of rent that the area of a tenancy has been so diminished by dilution or otherwise, or that the produce thereof has been so diminished by drought, hail, deposit of sand or other like calamity, that the full amount of rent payable by the tenant cannot be equitably decreed, the Court may, with the previous sanction of the Collector, allow such remission from the rent payable by the tenant as may appear to it to be just.

Remissio
and
suspension of
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nue.

30. (1) Whenever the payment of the whole or any part of the land-revenue payable in respect of any land is remitted or suspended, a Revenue-officer may, if the rent be payable in cash or be rent payable in kind of which the amount is fixed, by order, remit or suspend, as the case may be, the payment of the rent of that land to an amount which may bear the same proportion to the whole of the rent payable in respect of the land as the land-revenue or which payment has been remitted or suspended bears to the whole of the land-revenue payable in respect of the land:

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I of 1906.

Provided that in the case of an occupancy tenant, whose rent is of the nature hereinbefore in this sub-section described, the remission or suspension of the land-revenue payable in respect of his land shall, in the absence of a written order by a Revenue-officer to the contrary, carry with it a proportionate remission or suspension, as the case may be, of his rent.

When the payment of the rent of any land has been suspended under this clause it shall remain under suspension until the Collector orders the revenue of that land to be realized.

(2) An order passed under sub-section (1) shall not be liable to be contested by suit in any Court.

(3) A suit shall not lie for the recovery of any rent of which the payment has been remitted, or during the period or suspension, of any rent of which the payment has been suspended.

(4) Where the payment of rent has been suspended, the period during which the suspension has continued shall be excluded in the computation of the period of limitation prescribed for a suit for the recovery of the rent.

(5) If the landlord collects from a tenant any rent of which the payment has been remitted, or is under suspension, the Revenue-officer may recover from the landlord the amount or value of the rent so collected, and may also recover by way of penalty a further sum not exceeding such amount or value, and may cause to be refunded to the tenant the amount or value of the rent so collected from him.

Punjab Act
I of 1906.

(6) The provisions of this section relating to the remission and suspension of the payment of rent may be applied, so far as they can be made applicable, to land of which the land-revenue has been released, compounded for or redeemed in any case in which, if the land-revenue in respect of the land had not been released, com-

pounded for or redeemed, the whole or any part of it might, in the opinion of the Revenue-officer, be remitted or suspended under the rules for the time being in force for regulating the remission and suspension of land-revenue.

Punjab Act
I of 1906.

(7) Any sum of which the recovery is ordered under sub-section (5) on account of rent or penalty may be recovered by the Collector as if it were an arrear of land-revenue.

Deposits.

31. In either of the following cases, namely:—

- (a) when a landlord refuses to receive, or grant a receipt for, any rent payable in money when tendered to him by a tenant, Power to deposit rent in certain cases with Revenue-officer.
- (b) when a tenant is in doubt as to the person entitled to receive rent payable in money,

the tenant may apply to a Revenue-officer for leave to deposit the rent in his office, and the Revenue-officer shall receive the deposit if, after examining the applicant, he is satisfied that there is sufficient ground for the application and if the applicant pays the fee, if any, chargeable for the issue of the notice next herein-after referred to.

32. (1) When a deposit has been so received, it shall be deemed to be a payment made by the tenant to his landlord in respect of rent due. Effect of depositing rent.

(2) The Revenue-officer receiving the deposit shall give notice of the receipt thereof to every person who he has reason to believe claim. or is entitled to the deposit, and may pay the amount thereof to any person appearing to him to be entitled thereto, or may, if he thinks fit, retain the deposit pending the decision of a competent Court as to the person so entitled.

(3) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under this section, but nothing in this sub-section shall prevent any person entitled to receive the amount of any such deposit from recovering it from a person to whom it has been paid by a Revenue-officer.

Recovery of rent from attached produce.

33 (1) If an order is made by any Court for the attachment of the produce of a tenancy or of any part of a tenancy, the landlord may apply to the Revenue-officer by whom the attachment is to be or has been made to sell the produce and pay to him out of the proceeds of the sale thereof the amount or value of— Recovery rent from attached produce.

- (a) any rent which has fallen due to him in respect of the tenancy within the year immediately preceding the application, and
- (b) the rent which will be falling due after the harvesting of the produce and is chargeable against it.

(2) The Revenue-officer shall give the person at whose instance the attachment was made an opportunity of showing cause why the application of the landlord should not be granted and, if he finds the landlord's claim to the whole or any part of the rent to be proved, he shall cause the produce or such portion thereof as he may deem necessary to be sold, and shall apply the proceeds of the sale in the first instance to satisfy the claim.

(3) The finding of the Revenue-officer under sub-section (2) shall have the force of a decree in a suit between the landlord and the tenant.

Leases for period exceeding term of assessment of land-revenue.

Treatment of leases for period exceeding or equal to term of assessment of land-revenue.

34. (1) Where a lease has been granted, or an agreement has been entered into, by a land-owner in respect of any land assessed to land-revenue, fixing for a period exceeding the term for which the land-revenue has been assessed the rent or other sum payable in respect of the land under the lease or agreement, and that term has expired, the lease or agreement shall be voidable—

(a) at the option of the land-owner if the land-revenue of the land has been enhanced and the person to whom the lease has been granted or with whom the agreement has been entered into refuses to pay such rent or other sum as a Revenue Court, on the suit of the land-owner, determines to be fair and equitable or a Revenue-officer under the provisions of section 27-A has determined to be proper; and

Punjab Act
XI of 1925.

where the relation of landlord and tenant exists between the grantor and grantee of the lease, or between the persons who entered into the agreement—

(b) at the option of the tenant if the land-revenue of the land has been reduced and the landlord refuses to accept such rent as a Revenue Court, on the suit of the tenant, determines to be fair and equitable or a Revenue-officer under the provisions of section 27-A has determined to be proper.

Punjab Act
XI of 1925.

(2) Any agreement relative to the occupation, rent, profits or produce of any land which has been entered into for the term of the currency of an assessment shall, unless a contrary intention clearly appears in the agreement or the agreement is terminated by consent of parties or course of law continue in force until a revised assessment takes effect.

CHAPTER IV.

RELINQUISHMENT, ABANDONMENT AND EJECTMENT.

Relinquishment.

Relinquishment by tenant for a fixed term.

35. A tenant holding for a fixed term under a contract or a decree or order of competent authority may relinquish his tenancy without notice at the end of that term.

36. (1) Any other tenant may relinquish his tenancy by giving verbally or in writing to his landlord or to his landlord's agent, on or before the fifteenth day of January in any year, notice of his intention to relinquish the tenancy at the end of the agricultural year then current.

Relinquish-
ment by any
other tenant.

(2) The tenant may, instead of, or in addition to, giving the notice in the manner mentioned in sub-section (1), apply to a Revenue-officer on or before the date aforesaid to cause the notice to be served on the landlord, and the Revenue-officer, on receiving the cost of service from the tenant, shall cause the notice to be served as soon as may be.

(3) If the tenant does not give notice in the manner prescribed in this section, he shall be liable to pay the rent of his tenancy for any part of the ensuing agricultural year during which the tenancy is not let by the landlord to some other person or is not cultivated by the landlord himself.

37. A tenant cannot, without the consent of his landlord, relinquish a part only of his tenancy.

Relinquish-
ment of part
only of a
tenancy.

Abandonment.

38. (1) If a tenant having a right of occupancy fails for more than one year without sufficient cause to cultivate his tenancy, either by himself or some other person, and to arrange for payment of the rent thereof as it falls due, the right of occupancy shall be extinguished from the end of that year.

Abandon-
ment of
tenancy by
occupancy
tenant.

Punjab Act
XI of 1925.

(2) For the purposes of this section a muqarraridar shall be deemed to be a tenant having a right of occupancy.

Ejection.

Liability to ejection.

39. (1) A tenant having a right of occupancy shall be liable to be ejected from his tenancy on any of the following grounds, namely:—

Grounds of
ejection of
occupancy
tenant.

- (a) that he has used the land comprised in the tenancy in a manner which renders it unfit for the purposes for which he held it;
- (b) where rent is payable in kind, that he has without sufficient cause failed to cultivate that land in the manner or to the extent customary in the locality in which the land is situate;
- (c) that a decree for an arrear of rent in respect of the tenancy has been passed against him and remains unsatisfied.

Punjab Act
XI of 1925.

(2) For the purposes of this section a muqarraridar shall be deemed to be a tenant having a right of occupancy.

40. A tenant not having a right of occupancy, but holding for a fixed term under a contract or a decree or order of competent authority, shall be liable to be ejected from his tenancy at the ex-

Grounds of
ejection of
tenant for a
fixed term.

piration of that term, and, on any of the following grounds, before the expiration thereof, namely:—

- (a) that he has used the land comprised in the tenancy in a manner which renders it unfit for the purposes for which he held it;
- (b) where rent is payable in kind, that he has without sufficient cause failed to cultivate that land in the manner or to the extent customary in the locality in which the land is situate;
- (c) on any ground which would justify ejectment under the contract, decree or order.

41. A tenant who has not a right of occupancy, and does not hold for a fixed term under a contract or a decree or order of competent authority, may be ejected at the end of any agricultural year.

Procedure on ejectment.

42. A tenant shall not be ejected otherwise than in execution of a decree for ejectment except in the following cases, namely:—

- (a) when a decree for an arrear of rent in respect of his tenancy has been passed against him and remains unsatisfied;
- (b) when the tenant has not a right of occupancy and does not hold for a fixed term under a contract or a decree or order of competent authority.

43. In any such case as is mentioned in clause (a) or clause (b) of the last foregoing section, the landlord may apply to a Revenue-officer for the ejectment of the tenant in the case mentioned in the former clause or for the service on the tenant of a notice of ejectment in the case mentioned in the latter clause.

44. (1) On receiving the application in any such case as is mentioned in clause (a) of section 42, the Revenue-officer shall, after such inquiry with respect to the existence of the arrear as he deems necessary, cause a notice to be served on the tenant, stating the date of the decree and the amount due thereunder, and informing him that if he does not pay that amount to the Revenue-officer within fifteen days from receipt of the notice he will be ejected from the land.

(2) If the amount is not so paid, the Revenue-officer shall, subject to the provisions of this Act with respect to the payment of compensation, order the ejectment of the tenant unless good cause is shown to the contrary.

45. (1) On receiving the application of the landlord in any such case as is mentioned in clause (b) of section 42, the Revenue-officer shall, if the application is in order and not open to objection on the face of it, cause a notice of ejectment to be served on the tenant.

(2) A notice under sub-section (1) shall not be served after the XII of 1891. fifteenth day of November in any agricultural year.

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Ejectment of
tenant from
year to year.

Restriction
on ejectment.

Application
to Revenue-
officer for
ejectment.

Ejectment
for failure to
satisfy decree
for arrear of
rent.

Ejectment of
tenant from
year to year
by notice.

(3) The notice shall specify the name of the landlord on whose application it is issued, and describe the land to which it relates, and shall inform the tenant that he must vacate the land before the first day of May next following, or that, if he intends to contest his liability to ejection, he must institute a suit for that purpose in a Revenue Court within two months from the date of the service of the notice.

(4) The notice shall also inform the tenant that if he does not intend to contest his liability to be ejected and he has any claim for compensation on ejection he should, within two months from the date of the service of the notice, prefer his claim to the Revenue-officer having authority under the next following sub-section to order his ejection in the circumstances described in that sub-section.

(5) If within two months from the date of the service of the notice the tenant does not institute a suit to contest his liability to be ejected, a Revenue-officer, on the application of the landlord, shall, subject to the provisions of this Act with respect to the payment of compensation, order the ejection of the tenant:

Provided that the Revenue-officer shall not make the order until he is satisfied that the notice was duly served on the tenant.

(6) If within those two months the tenant institutes a suit to contest his liability to be ejected and fails in the suit, the Court by which the suit is determined shall by its decree direct the ejection of the tenant.

46. The Financial Commissioner may make rules prescribing— Power to make rules.

(a) the form and language of applications and notices under the two last foregoing sections: and

(b) the manner in which those applications and notices are to be signed and attested.

General provisions respecting ejection.

47. A decree or order for the ejection of a tenant shall not be executed at any other time than between the first day of May and the fifteenth day of June (both days inclusive), unless the Court making the decree or, where the order is made under section 44, the officer making the order otherwise directs. Time for ejection.

48. (1) If in a suit for the ejection of a tenant on either of the grounds mentioned in clauses (a) and (b) of section 39 or of section 40 it appears to the Court that the injury caused by the act or omission on which the suit is based is capable of being remedied, or that an award of compensation will be sufficient satisfaction to the landlord therefor, the Court may, instead of making a decree for the ejection of the tenant, order him to remedy the injury within a period to be fixed in the order, or order him to pay into Court, within such a period, such compensation as the Court thinks fit. Relief against forfeiture.

(2) The Court may from time to time, for special reasons, extend a period fixed by it under sub-section (1).

(3) If within the period, or extended period as the case may be, fixed by the Court under this section, the injury is remedied or the compensation is paid, a decree for the ejectment of the tenant shall not be made.

Rights of
ejected
tenants in
respect of
crops and
land prepared
for sowing.

49. (1) Where at the time of the proposed ejectment of a tenant from any land his uncut or ungathered crops are standing on any part thereof, he shall not be ejected from that part until the crops have ripened and he has been allowed a reasonable time to harvest them.

(2) The Court or Revenue-officer decreeing or ordering the ejectment of the tenant may, on the application of the landlord, determine any dispute arising in consequence of the provisions of sub-section (1) between the landlord and the tenant or between the landlord and any person entitled to harvest the crops of the tenant, and may in its or his discretion—

(a) direct that the tenant pay for the longer occupation of the land secured to him under sub-section (1) such rent as may be fair and equitable, or

(b) determine the value of the tenant's uncut and ungathered crops, and, on payment thereof by the landlord to the Court or Revenue-officer, forthwith eject the tenant.

(3) When a tenant for whose ejectment proceedings have been taken, has, conformably with local usage, prepared for sowing any land comprised in his tenancy, but has not sown or planted crops on that land, he shall be entitled to receive from the landlord before ejectment a fair equivalent in money for the labour and capital expended by him in so preparing the land, and the Court or Revenue-officer before which or whom the proceedings are pending shall, on the application of the tenant, determine the sum payable to the tenant under this sub-section and stay his ejectment until that sum has been paid to him.

Relief for wrongful dispossession.

50. In either of the following cases, namely:—

Relief for
wrongful
dispossession
or ejectment.

(a) if a tenant has been dispossessed without his consent of his tenancy or any part thereof otherwise than in execution of a decree or than in pursuance of an order under section 44 or section 45,

(b) if a tenant who, not having instituted a suit under section 45, has been ejected from his tenancy or any part thereof in pursuance of an order under that section denies his liability to be ejected,

the tenant may, within one year from the date of his dispossession or ejectment, institute a suit for recovery of possession or occupancy, or for compensation, or for both.

Punjab Act
V of 1929.

50-A. No person whose ejection has been ordered by a revenue court under section 45, sub-section (6), or whose suit has been dismissed under section 50, may institute a suit in a civil court to contest his liability to ejection, or to recover possession or occupancy rights, or to recover compensation.

Bar to civil
suits.

51. Possession of a tenancy or of any land comprised in a tenancy shall not be recoverable under section 9 of the Specific Relief Act, 1877, by a tenant dispossessed thereof.

Bar of relief
by suit under
section 9, Act
I of 1877.

Power to vary dates prescribed by this chapter.

52. (1) The Local Government may, for all or any of the territories under its administration, by notification fix for the purposes of sections 36, 45 and 47, or of any of those sections, any other dates instead of those specified therein.

Power for
Local Govern-
ment to
fix dates for
certain pur-
poses.

(2) A notification under this section shall not take effect till after the expiration of six months from the date of the publication thereof.

Punjab Act
XI of 1925.

52-A. The provisions of this chapter shall not apply to muqarraridars.

Provisions of
chapter V.
not to apply
to muqarrari-
dars.

CHAPTER V.

ALIENATION OF, AND SUCCESSION TO, RIGHT OF OCCUPANCY.

Alienation.

53. (1) A tenant having a right of occupancy under section 5 may transfer that right by sale, gift or mortgage, subject to the conditions mentioned in this section.

Private
transfer of
right of
occupancy
under section
5 by tenant.

(2) If he intends to transfer the right by sale, gift, mortgage by conditional sale or usufructuary mortgage, he shall cause notice of his intention to be served on his landlord through a Revenue-officer, and shall defer proceeding with the transfer for a period of one month from the date on which the notice is served.

(3) Within that period of one month the landlord may claim to purchase the right at such value as a Revenue-officer may, on application made to him in this behalf, fix.

(4) When the application to the Revenue-officer is to fix the value of a right of occupancy which is already mortgaged, he shall fix the value of the right as if it were not mortgaged.

(5) The landlord shall be deemed to have purchased the right if he pays the value to the Revenue-officer within such time as that officer appoints.

(6) On the value being so paid, the right of occupancy shall be extinct, and the Revenue-officer shall, on the application of the landlord, put the landlord in possession of the tenancy.

(7) If the right of occupancy was already mortgaged, the tenancy shall pass to the landlord unincumbered by the mortgage, but the mortgage-debt shall be a charge on the purchase-money.

Irregular transfers.

Irregular transfer of right of occupancy.

60. Any transfer made of a right of occupancy in contravention of the foregoing provisions of this chapter shall be voidable at the instance of the landlord.

CHAPTER VI.

IMPROVEMENTS AND COMPENSATION.

Improvements by landlords.

Improvement by landlords on tenancies of occupancy tenants.

61. (1) Without the previous permission of the Collector a landlord shall not make an improvement on the tenancy of a tenant having a right of occupancy.

(2) If a landlord desires to make such an improvement he may apply to the Collector for permission to make it, and the Collector shall, before making an order on the application, hear the objection, if any, of the tenant.

(3) In making an order on an application under sub-section (2) IV of 1914. the Collector shall be guided by such rules, if any, as the Local Government may make in this behalf.

Enhancement of rent in consideration of an improvement made by a landlord on the tenancy of an occupancy-tenant.

62. (1) When a landlord has, with the permission mentioned in the last foregoing section, made an improvement on the tenancy of a tenant having a right of occupancy, he may apply to the Collector for an enhancement of the rent of the tenant.

(2) If the tenant is a tenant to whom section 20 applies, the Collector shall enhance his rent to the share or rates, or with reference to the rent in gross, as the case may be, paid by tenants, having a similar right of occupancy, for land of a similar description and with similar advantages.

(3) If the tenant is a tenant to whom section 22 applies the Collector shall enhance his rent to such amount as the tenant would be liable to pay under that section if the land-revenue were re-assessed.

(4) When the improvement ceases to exist, the Collector may, on the application of the tenant, reduce the tenant's rent—

(a) in the case of a tenant to whom sub-section (2) applies, to the share or rates, or with reference to the rent in gross, as the case may be, paid by tenants, having a similar right of occupancy, for land of a similar description and with similar advantages, and

(b) in the case of a tenant to whom sub-section (3) applies, to such an amount as the tenant would be liable to pay if the land-revenue were re-assessed.

(5) Sections 25 and 26 shall be construed as applying to an application under this section, and a suit shall not lie in any Court for any purpose for which an application might be made under this section.

Improvements by tenants.

63. A tenant having a right of occupancy is entitled to make improvements on his tenancy.

Title of occupancy-tenant to make improvements.

64. (1) A tenant not having a right of occupancy may make improvements on his tenancy with the assent of his landlord.

Title of tenants not having right of occupancy to make improvements.

(2) If at any time the question arises whether or not the landlord assented to the making of an improvement by a tenant not having a right of occupancy, the assent may be inferred from circumstances.

65. Improvements made by a tenant before the commencement of this Act, shall be deemed to have been made in accordance with this Act, unless in the case of a tenant not having a right of occupancy it is shown that the improvement was made in contravention of a written agreement between him and his landlord.

Improvements made before commencement of this Act.

66. A tenant ejected in execution of a decree, or in pursuance of a notice of ejectment, shall not be entitled to compensation for any improvement begun by him after the institution of the suit, or service of the notice, which resulted in his ejectment.

Improvements begun in anticipation of ejectment.

67. If a landlord tenders to a tenant a lease of his tenancy for a term of not less than twenty years from the date of the tender at the rent then paid by the tenant, or at such other rent as may be agreed on, the tender, if accepted by the tenant, shall bar any claim by him to compensation in respect of improvements previously made on the tenancy.

Tender of lease for twenty years to tenant to be a bar to right to compensation.

68. Subject to the foregoing provisions of this chapter, a tenant who has made an improvement on his tenancy in accordance with this Act shall not be ejected, and the rent payable by him shall not be enhanced, until he has received compensation for the improvement.

Liability to pay compensation for improvements to tenant on ejectment or on enhancement of his rent.

Compensation for disturbance of clearing tenants.

69. (1) A tenant who has cleared and brought under cultivation waste land in which he has not a right of occupancy shall, if ejected from that land, be entitled to receive from the landlord as compensation for disturbance, in addition to any compensation for improvements, a sum to be determined by a Revenue Court or Revenue-officer in accordance with the merits of the case, but not exceeding five years' rent of the land:

Compensation for disturbance of clearing tenants.

Provided that a tenant who is a joint owner of land to which this section applies shall not be entitled to compensation for disturbance on ejectment from the land or any part thereof.

(2) If rent has been paid for the land by division or appraisal of the produce, or by rates fixed with reference to the nature of the crops grown, or if no rent, or no rent other than the land-revenue of the land and the rates and cesses chargeable thereon, has

(3) If within the period, or extended period as the case may be, fixed by the Court under this section, the injury is remedied or the compensation is paid, a decree for the ejectment of the tenant shall not be made.

Rights of ejected tenants in respect of crops and land prepared for sowing.

49. (1) Where at the time of the proposed ejectment of a tenant from any land his uncut or ungathered crops are standing on any part thereof, he shall not be ejected from that part until the crops have ripened and he has been allowed a reasonable time to harvest them.

(2) The Court or Revenue-officer decreeing or ordering the ejectment of the tenant may, on the application of the landlord, determine any dispute arising in consequence of the provisions of sub-section (1) between the landlord and the tenant or between the landlord and any person entitled to harvest the crops of the tenant, and may in its or his discretion—

(a) direct that the tenant pay for the longer occupation of the land secured to him under sub-section (1) such rent as may be fair and equitable, or

(b) determine the value of the tenant's uncut and ungathered crops, and, on payment thereof by the landlord to the Court or Revenue-officer, forthwith eject the tenant.

(3) When a tenant for whose ejectment proceedings have been taken, has, conformably with local usage, prepared for sowing any land comprised in his tenancy, but has not sown or planted crops on that land, he shall be entitled to receive from the landlord before ejectment a fair equivalent in money for the labour and capital expended by him in so preparing the land, and the Court or Revenue-officer before which or whom the proceedings are pending shall, on the application of the tenant, determine the sum payable to the tenant under this sub-section and stay his ejectment until that sum has been paid to him.

Relief for wrongful dispossession.

Relief for wrongful dispossession or ejectment.

50. In either of the following cases, namely:—

(a) if a tenant has been dispossessed without his consent of his tenancy or any part thereof otherwise than in execution of a decree or than in pursuance of an order under section 44 or section 45,

(b) if a tenant who, not having instituted a suit under section 45, has been ejected from his tenancy or any part thereof in pursuance of an order under that section denies his liability to be ejected,

the tenant may, within one year from the date of his dispossession or ejectment, institute a suit for recovery of possession or occupancy, or for compensation, or for both.

Punjab Act
V of 1929.

50-A. No person whose ejectment has been ordered by a revenue court under section 45, sub-section (6), or whose suit has been dismissed under section 50, may institute a suit in a civil court to contest his liability to ejectment, or to recover possession or occupancy rights, or to recover compensation.

Bar to civil suits.

51. Possession of a tenancy or of any land comprised in a tenancy shall not be recoverable under section 9 of the Specific Relief Act, 1877, by a tenant dispossessed thereof.

Bar of relief by suit under section 9, Act I of 1877.

Power to vary dates prescribed by this chapter.

52. (1) The Local Government may, for all or any of the territories under its administration, by notification fix for the purposes of sections 36, 45 and 47, or of any of those sections, any other dates instead of those specified therein.

Power for Local Government to fix dates for certain purposes.

(2) A notification under this section shall not take effect till after the expiration of six months from the date of the publication thereof.

Punjab Act
XI of 1925.

52-A. The provisions of this chapter shall not apply to muqarraridars.

Provisions of chapter V. not to apply to muqarraridars.

CHAPTER V.

ALIENATION OF, AND SUCCESSION TO, RIGHT OF OCCUPANCY.

Alienation.

53. (1) A tenant having a right of occupancy under section 5 may transfer that right by sale, gift or mortgage, subject to the conditions mentioned in this section.

Private transfer of right of occupancy under section 5 by tenant.

(2) If he intends to transfer the right by sale, gift, mortgage by conditional sale or usufructuary mortgage, he shall cause notice of his intention to be served on his landlord through a Revenue-officer, and shall defer proceeding with the transfer for a period of one month from the date on which the notice is served.

(3) Within that period of one month the landlord may claim to purchase the right at such value as a Revenue-officer may, on application made to him in this behalf, fix.

(4) When the application to the Revenue-officer is to fix the value of a right of occupancy which is already mortgaged, he shall fix the value of the right as if it were not mortgaged.

(5) The landlord shall be deemed to have purchased the right if he pays the value to the Revenue-officer within such time as that officer appoints.

(6) On the value being so paid, the right of occupancy shall be extinct, and the Revenue-officer shall, on the application of the landlord, put the landlord in possession of the tenancy.

(7) If the right of occupancy was already mortgaged, the tenancy shall pass to the landlord unincumbered by the mortgage, but the mortgage-debt shall be a charge on the purchase-money.

(8) If there is no such charge as aforesaid, the Revenue-officer shall, subject to any directions which he may receive from any Court, pay the purchase-money to the tenant.

(9) If there is such a charge, the Revenue-officer shall, subject as aforesaid, either apply in discharge of the mortgage-debt so much of the purchase-money as is required for that purpose and pay the balance, if any, to the tenant, or retain the purchase-money pending the decision of a Civil Court as to the person or persons entitled thereto.

(10) Where there are several landlords of a tenancy, any one of them may be deemed to be the landlord for the purposes of this section.

(11) No suit or other proceedings shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under the two last foregoing sub-sections, but nothing in this sub-section shall prevent any person entitled to receive the whole or any part of the purchase-money from recovering it from a person to whom it has been paid by a Revenue-officer.

Procedure on foreclosure of mortgage or right of occupancy under section 5.

54. Where a mortgagee of a right of occupancy under section 5 proposes to foreclose his mortgage, or otherwise enforce his lien on the land, subject to the right, the provisions of the last foregoing section shall, so far as they can be made applicable, apply as if the mortgagee were the tenant.

Sale of right of occupancy under section 5 in execution of decree.

55. (1) A right of occupancy under section 5 may be sold in execution of a decree or order of a Court;

(2) But notice of an intended sale of any such right shall be given by the Court to the landlord, and, if at any time before the close of the day on which the sale takes place the landlord pays to the Court or to the officer conducting the sale a deposit of twenty-five per centum on the highest bid made at the sale, he shall be declared to be the purchaser instead of the person who made that bid.

Transfer of right of occupancy under any other section than section 5. Rights and liabilities of transferee of right of occupancy.]

56. A right of occupancy under any other section than section 5 shall not be attached or sold in execution of a decree or order of any Court or, without the previous consent in writing of the landlord, be transferred by private contract.

57. When a right of occupancy has been transferred by sale, gift or usufructuary mortgage to a person other than the landlord, that person shall, in respect of the land in which the right subsists, have the same rights, and be subject to the same liabilities, as the tenant to whom before the transfer the right belonged, had and was subject to.

Subletting.

58. (1) A tenant having a right of occupancy in land may, subject to the provisions of this Act and to the conditions of any written contract between him and his landlord, sublet the land or any part thereof for any term not exceeding seven years.

(2) A person to whom land is sublet by a tenant having a right of occupancy therein shall, in respect of that land, and so far as regards the landlord, be, jointly with the tenant, subject to all the liabilities of the tenant under this Act.

Punjab Act
II of 1927.

58-A. (1) Any tenant with a right of occupancy may, with the consent of his landlord, transfer his land to all the members of a Co-operative Society for the Consolidation of Holdings of which both he and his landlord are members and obtain from them any other land in exchange.

Transfer of
right of
occupancy
under any
section of
the Act by
exchange.

(2) Notwithstanding anything contained in this Act or any other enactment in force, any land obtained in exchange in pursuance of the provisions of sub-section (1) shall be deemed to be subject to the same right of occupancy as the land given for it in exchange.

Succession.

59. (1) When a tenant having a right of occupancy in any land dies, the right shall devolve—

Succession
to right of
occupancy.

- (a) on his male lineal descendants, if any, in the male line of descent, and,
- (b) failing such descendants, on his widow, if any, until she dies or re-marries or abandons the land or is under the provisions of this Act ejected therefrom, and,
- (c) failing such descendants and widow, or, if the deceased tenant left a widow, then when her interest terminates under clause (b) of this sub-section, on his male collateral relatives in the male line of descent from the common ancestor of the deceased tenant and those relatives:

Provided, with respect to clause (c) of this sub-section, that the common ancestor occupied the land.

Explanation.

Punjab Act
II of 1927.

For the purpose of clause (c), land obtained in exchange by the deceased tenant or any of his predecessors in interest in pursuance of the provisions of sub-section (1) of section 58-A shall be deemed to have been occupied by the common ancestor if the land given for it in exchange was occupied by him.

(2) As among descendants and collateral relatives claiming under sub-section (1), the right shall, subject to the provisions of that sub-section, devolve as if it were land left by the deceased in the village in which the land subject to the right is situate.

(3) When the widow of a deceased tenant succeeds to a right of occupancy, she shall not transfer the right by sale, gift or mortgage, or by sub-lease for a term exceeding one year.

(4) If the deceased tenant has left no such persons as are mentioned in sub-section (1) on whom his right of occupancy may devolve under that sub-section, the right shall be extinguished.

Irregular transfers.

Irregular transfer of right of occupancy.

60. Any transfer made of a right of occupancy in contravention of the foregoing provisions of this chapter shall be voidable at the instance of the landlord.

CHAPTER VI.

IMPROVEMENTS AND COMPENSATION.

Improvements by landlords.

Improvement by landlords on tenancies of occupancy tenants.

61. (1) Without the previous permission of the Collector a landlord shall not make an improvement on the tenancy of a tenant having a right of occupancy.

(2) If a landlord desires to make such an improvement he may apply to the Collector for permission to make it, and the Collector shall, before making an order on the application, hear the objection, if any, of the tenant.

(3) In making an order on an application under sub-section (2) IV of 1911 the Collector shall be guided by such rules, if any, as the Local Government may make in this behalf.

Enhancement of rent in consideration of an improvement made by a landlord on the tenancy of an occupancy-tenant.

62. (1) When a landlord has, with the permission mentioned in the last foregoing section, made an improvement on the tenancy of a tenant having a right of occupancy, he may apply to the Collector for an enhancement of the rent of the tenant.

(2) If the tenant is a tenant to whom section 20 applies, the Collector shall enhance his rent to the share or rates, or with reference to the rent in gross, as the case may be, paid by tenants, having a similar right of occupancy, for land of a similar description and with similar advantages.

(3) If the tenant is a tenant to whom section 22 applies the Collector shall enhance his rent to such amount as the tenant would be liable to pay under that section if the land-revenue were re-assessed.

(4) When the improvement ceases to exist, the Collector may, on the application of the tenant, reduce the tenant's rent—

(a) in the case of a tenant to whom sub-section (2) applies, to the share or rates, or with reference to the rent in gross, as the case may be, paid by tenants, having a similar right of occupancy, for land of a similar description and with similar advantages, and

(b) in the case of a tenant to whom sub-section (3) applies, to such an amount as the tenant would be liable to pay if the land-revenue were re-assessed.

(5) Sections 25 and 26 shall be construed as applying to an application under this section, and a suit shall not lie in any Court for any purpose for which an application might be made under this section.

Improvements by tenants.

63. A tenant having a right of occupancy is entitled to make improvements on his tenancy.

Title of occupancy-tenant to make improvements.

64. (1) A tenant not having a right of occupancy may make improvements on his tenancy with the assent of his landlord.

Title of tenants not having right of occupancy to make improvements.

(2) If at any time the question arises whether or not the landlord assented to the making of an improvement by a tenant not having a right of occupancy, the assent may be inferred from circumstances.

65. Improvements made by a tenant before the commencement of this Act, shall be deemed to have been made in accordance with this Act, unless in the case of a tenant not having a right of occupancy it is shown that the improvement was made in contravention of a written agreement between him and his landlord.

Improvements made before commencement of this Act.

66. A tenant ejected in execution of a decree, or in pursuance of a notice of ejectment, shall not be entitled to compensation for any improvement begun by him after the institution of the suit, or service of the notice, which resulted in his ejectment.

Improvements begun in anticipation of ejectment.

67. If a landlord tenders to a tenant a lease of his tenancy for a term of not less than twenty years from the date of the tender at the rent then paid by the tenant, or at such other rent as may be agreed on, the tender, if accepted by the tenant, shall bar any claim by him to compensation in respect of improvements previously made on the tenancy.

Tender of lease for twenty years to tenant to be a bar to right to compensation.

68. Subject to the foregoing provisions of this chapter, a tenant who has made an improvement on his tenancy in accordance with this Act shall not be ejected, and the rent payable by him shall not be enhanced, until he has received compensation for the improvement.

Liability to pay compensation for improvements to tenant on ejectment or on enhancement of his rent.

Compensation for disturbance of clearing tenants.

69. (1) A tenant who has cleared and brought under cultivation waste land in which he has not a right of occupancy shall, if ejected from that land, be entitled to receive from the landlord as compensation for disturbance, in addition to any compensation for improvements, a sum to be determined by a Revenue Court or Revenue-officer in accordance with the merits of the case, but not exceeding five years' rent of the land:

Compensation for disturbance of clearing tenants.

Provided that a tenant who is a joint owner of land to which this section applies shall not be entitled to compensation for disturbance on ejectment from the land or any part thereof.

(2) If rent has been paid for the land by division or appraisal of the produce, or by rates fixed with reference to the nature of the crops grown, or if no rent, or no rent other than the land-revenue of the land and the rates and cesses chargeable thereon, has

been paid therefor, the compensation may be computed as if double the amount of the land-revenue of the land were the annual rent thereof:

Provided that in any estate of which the assessment has been confirmed on or after the twenty-second day of February 1929, the compensation may be computed as if four times the amount of the land revenue of the land were the annual rent thereof.

Procedure in determining compensation.

Determina-
tion of com-
pensation by
Revenue
Courts.

70. (1) In every suit by a tenant to contest his liability to ejectment or by a landlord to eject a tenant or to enhance his rent, the Court shall direct the tenant to file a statement of his claim, if any, to compensation for improvements or for disturbance and of the grounds thereof.

(2) If the Court decrees the ejectment of the tenant or the enhancement of his rent, it shall determine the amount of compensation, if any, due to the tenant, and shall stay execution of the decree until the landlord pays into Court that amount less any arrears of rent or costs proved to the satisfaction of the Court to be due to him from the tenant.

Determina-
tion of com-
pensation by
Revenue-
officers.

71. In either of the following cases, namely:—

- (a) when a notice has been served on a tenant under section 44,
- (b) when a notice of ejectment has been served on a tenant under section 45 and the tenant has not instituted a suit to contest his liability to be ejected,

the tenant may apply to the Revenue-officer having authority to order his ejectment under section 44 or section 45, as the case may be, to determine the amount of compensation due to him for improvements or for disturbance, or for both, and the Revenue-officer shall determine the amount, if any, accordingly and stay the ejectment of the tenant until the landlord pays to the Revenue-officer the amount so determined less any arrears of rent or costs proved to the satisfaction of the Revenue-officer to be due to the landlord from the tenant.

Matters to be
regarded in
assessment
of compensa-
tion for im-
provements.

72. In estimating the compensation to be awarded under this chapter to a tenant for an improvement the Court or Revenue-officer shall have regard to—

- (a) the amount by which the value or the produce of the tenancy, or the value of that produce, is increased by the improvement;
- (b) the condition of the improvement and the probable duration of its effects;
- (c) the labour and capital required for the making of such an improvement;
- (d) any reduction or remission of rent or other advantage allowed to the tenant by the landlord in consideration of the improvement; and

(e) in the case of a reclamation, or of the conversion of un-irrigated into irrigated land, the length of time during which the tenant has had the benefit of the improvement.

73. (1) The compensation shall be made by payment in money, unless the parties agree that it be made in whole or in part by the grant of a beneficial lease of land or in some other way.

Form of compensation.

(2) If the parties so agree, the Court or Revenue-officer shall make an order accordingly.

Relief in case of ejectment before determination of compensation.

74. (1) If from any cause the amount of compensation payable to a tenant—

Relief in case of ejectment before determination of compensation.

(a) under this chapter for improvements or disturbance; or

(b) under section 49 for the value of uncut or ungathered crops or the preparation of land for sowing,

has not been determined before the tenant is ejected, the ejectment shall not be invalidated by reason of the omission, but the Court or Revenue-officer which decreed or who ordered the ejectment may, on application made by the tenant within one year from the date of the ejectment, correct the omission by making in favour of the tenant an order for the payment to him by the landlord of such compensation as the Court or officer may determine the tenant to be entitled to.

(2) An order made under sub-section (1) may be executed in the same manner as a decree for money may be executed by a Revenue Court.

CHAPTER VII.

JURISDICTION AND PROCEDURE.

Jurisdiction.

75. (1) There shall be the same classes of Revenue-officers under this Act as under the Punjab Land Revenue Act, 1887, and, in the absence of any order of the Local Government to the contrary, a Revenue-officer of any class having jurisdiction within any local limits under that Act shall be a Revenue-officer of the same class having jurisdiction within the same local limits under this Act.

XVII of 1887.

Revenue-officers.

(2) The expressions "Collector" and "Financial Commissioner" have the same meaning in this Act as in the Punjab Land Revenue Act, 1887.

XVII of 1887.

76. (1) The following applications and proceedings shall be disposed of by Revenue-officers as such, and no Court shall take cognizance of any dispute or matter with respect to which any such application or proceeding might be made or had:—

Applications and proceedings cognizable by Revenue-officers.

First Group.

(a) proceedings under section 27 for the adjustment of rents expressed in terms of the land-revenue;

- (aa) proceedings under section 27-A for the adjustment of rents of occupancy tenants in the Attock district; Punjab Act
XI of 1925.
- (b) proceedings relating to the remission and suspension of rent under section 30;
- (c) applications under section 43 for the ejectment of a tenant against whom a decree for an arrear of rent in respect of his tenancy has been passed and remains unsatisfied;
- (d) applications under section 45, sub-section (5), for the ejectment of a tenant on whom a notice of ejectment has been served and who has not instituted a suit to contest his liability to be ejected but has claimed compensation under section 71;
- (e) applications under section 53 or section 54 for the fixing of the value of a right of occupancy;
- (f) applications under section 53 or section 54 by landlords for possession of land the right of occupancy in which has become extinct;
- (g) proceedings under Chapter VI with respect to the award of compensation for improvements or disturbance;

Second Group.

- (h) applications under section 17 with respect to the division or appraisement of produce;
- (i) applications under section 45, sub-section (5), for the ejectment of a tenant on whom a notice of ejectment has been served and who has not instituted a suit to contest his liability to be ejected and has not claimed compensation under section 71;
- (j) applications for the determination—
 - (i) under section 49 of the rent payable for land occupied by crops uncut or ungathered at the time of an order being made for the ejectment of a tenant, or
 - (ii) under section 49 or section 74 of the value of such crops or of the sum payable to the tenant for labour and capital expended by him in preparing land for sowing;

Third Group.

- (k) applications under section 31 by tenants to deposit rent;
- (l) applications under section 36 for service of notice of relinquishment;
- (m) applications under section 43 for service of notice of ejectment;
- (n) applications under section 53 or section 54 for service of notice of intended transfer or of intended foreclosure or other enforcement of lien.

(2) Except as otherwise provided by any rule made by the Financial Commissioner in this behalf,—

- (a) a Collector or an Assistant Collector of the first grade may dispose of any of the applications and proceedings mentioned in sub-section (1);
- (b) an Assistant Collector of the second grade, not being a Naib-Tahsildar, may dispose of any of the applications mentioned in the second and third groups of that sub-section, and
- (c) a Naib-Tahsildar, when invested with the powers of an Assistant Collector of the second grade, may dispose of any of the applications mentioned in the third group of that sub-section.

77 (1) When a Revenue-officer is exercising jurisdiction with respect to any such suit as is described in sub-section (3), or with respect to an appeal or other proceeding arising out of any such suit, he shall be called a Revenue Court. Revenue Courts and suits cognizable by them.

(2) There shall be the same classes of Revenue Courts as of Revenue-officers under this Act, and, in the absence of any order of the Local Government to the contrary, a Revenue-officer of any class having jurisdiction within any local limits under this Act shall be a Revenue Court of the same class having jurisdiction within the same local limits.

(3) The following suits shall be instituted in and heard and determined by Revenue Courts, and no other court shall take cognizance of any dispute or matter with respect to which any such suit might be instituted:—

Provided that—

- (1) where in a suit cognizable by and instituted in a Civil Court it becomes necessary to decide any matter which can under this sub-section be heard and determined only by a Revenue Court, the Civil Court shall endorse upon the plaint the nature of the matter for decision and the particulars required by Order VII, rule 10, Civil Procedure Code, and return the plaint for presentation to the Collector; Procedure where revenue matter is raised in a Civil Court.
- (2) on the plaint being presented to the Collector, the Collector shall proceed to hear and determine the suit where the value thereof exceeds Rs. 1,000 or the matter involved is of the nature mentioned in First Group, and in other cases may send the suit to an Assistant Collector of the 1st grade for decision.

First Group.

- (a) suits between landlord and tenant for enhancement or reduction of rent under section 24;

Punjab Act
III of 1912.

Act V of
1908.

- (b) suits between landlord and tenant for addition to or abatement of rent under section 28 or for commutation of rent;
- (c) suits under section 34 for the determination of rent or other sum on the expiration of the term of an assessment of land-revenue;* [and suits relating to the rent to be paid under a mortgage made in accordance with form (c) as prescribed by section 6 of the Punjab Alienation of Land Act, 1900].

Punjab Act,
XIII of 1900.

Second Group.

- (d) suits by a tenant to establish a claim to a right of occupancy, or by a landlord to prove that a tenant has not such a right;
- (e) suits by a landlord to eject a tenant;
- (f) suits by a tenant under section 45 to contest liability to ejectment, when notice of ejectment has been served;
- (g) suits by a tenant under section 50 for recovery of possession or occupancy, or for compensation, or for both;
- (h) suits by a landlord to set aside a transfer made of a right of occupancy, or to dispossess a person to whom such a transfer has been made, or for both purposes;
- (i) any other suit between landlord and tenant arising out of the lease or conditions on which a tenancy is held;
- (j) suits for sums payable on account of village cesses or village expenses;
- (k) suits by a co-sharer in an estate or holding for a share of the profits thereof or for a settlement of accounts;
- (l) suits for the recovery of over-payments of rent or land-revenue or of any other demand for which a suit lies in a Revenue Court under this sub-section;
- (m) suits relating to the emoluments of kanungos, zaildars, inamdars or village-officers.

Third Group.

- (n) suits by a landlord for arrears of rent or the money-equivalent of rent, or for sums recoverable under section 14;
- (o) suits by a landowner to recover moneys claimed as due for the enjoyment of rights in or over land or in water, including rights of irrigation, rights over fisheries, rights of pasturage and forest-rights.

* See section 22, Punjab Alienation of Land Act (XIII of 1900).

(p) suits for sums payable on account of land-revenue or of any other demand recoverable as an arrear of land-revenue under any enactment for the time being in force, and by a superior landowner for other sums due to him as such.

(4) Except as otherwise provided by any rule made by the Financial Commissioner in this behalf,—

(a) a Collector may hear and determine any of the suits mentioned in sub-section (3);

(b) an Assistant Collector of the first grade may hear and determine any of the suits mentioned in the second and third groups of that sub-section, and, if he has by name been specially empowered in this behalf by the Local Government, any of the suits mentioned in the first group; and

(c) an Assistant Collector of the second grade may hear and determine any of the suits mentioned in the third group.

Administrative control.

78. (1) The general superintendence and control over all other Revenue-officers and Revenue Courts shall be vested in, and all such officers and Courts shall be subordinate to, the Financial Commissioner. Superintendence and control of Revenue-officers and Revenue Courts.

(2) Subject to the general superintendence and control of the Financial Commissioner, a Commissioner shall control all other Revenue-officers and Revenue Courts in his division.

(3) Subject as aforesaid and to the control of the Commissioner, a Collector shall control all other Revenue-officers and Revenue Courts in his district.

79. (1) The Financial Commissioner, or a Commissioner or Collector may by written order distribute, in such manner as he thinks fit, any business cognizable by any Revenue-officer or Revenue Court under his control. Power to distribute business and withdraw and transfer cases.

(2) The Financial Commissioner or a Commissioner or Collector may withdraw any case pending before any Revenue-officer or Revenue Court under his control, and either dispose of it himself, or by written order refer it for disposal to any other Revenue-officer or Revenue Court under his control.

(3) An order under sub-section (1) or sub-section (2) shall not empower any Revenue-officer or Revenue Court to exercise any powers or deal with any business which he or it would not be competent to exercise or deal with within the local limits of his or its own jurisdiction.

Appeal, Review and Revision.

80. Subject to the provisions of this Act and the rules there- Appeals. under, an appeal shall lie from an original or appellate order or

decree made under this Act by a Revenue-officer or Revenue Court, as follows, namely:—

- (a) to the Collector when the order or decree is made by an Assistant Collector of either grade;
- (b) to the Commissioner when the order or decree is made by a Collector;
- (c) to the Financial Commissioner when the order or decree is made by a Commissioner:

Provided that—

- (i) an appeal from an order or decree made by an Assistant Collector of the first grade specially empowered by name in that behalf by the Local Government in a suit mentioned in the first group of sub-section (3) of section 77 shall lie to the Commissioner and not to the Collector;
- (ii) when an original order or decree is confirmed on first appeal, a further appeal shall not lie;
- (iii) when any such order or decree is modified or reversed on appeal by the Collector, the order or decree made by the Commissioner on further appeal, if any, to him shall be final.

**Limitation
for appeals.**

81. The period of limitation for an appeal under the last foregoing section shall run from the date of the order or decree appealed against, and shall be as follows, that is to say:—

- (a) when the appeal lies to the Collector—thirty days;
- (b) when the appeal lies to the Commissioner—sixty days;
- (c) when the appeal lies to the Financial Commissioner—ninety days.

**Review by
Revenue-
officers.**

82. (1) A Revenue-officer, as such, may either of his own motion or on the application of any party interested, review, and on so reviewing modify, reverse or confirm any order passed by himself or by any of his predecessors in office:

Provided as follows:—

- (a) when a Commissioner or Collector thinks it necessary to review any order which he has not himself passed, and when a Revenue-officer of a class below that of Collector, proposes to review any order whether passed by himself or by any of his predecessors in office, he shall first obtain the sanction of the Revenue-officer to whose control he is immediately subject;
- (b) an application for review of an order shall not be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within that period:

- (c) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order;
- (d) an order against which an appeal has been preferred shall not be reviewed.

(2) For the purposes of this section the Collector shall be deemed to be the successor in office of any Revenue-officer of a lower class who has left the district or has ceased to exercise powers as a Revenue-officer, and to whom there is no successor in office.

(3) An appeal shall not lie from an order refusing to review, or confirming on review, a previous order.

83. In the computation of the period for an appeal from, or Computation of periods limited for appeals and applications for review.
 xv of 1877. an application for the review of, an order under this Act, the limitation therefor shall be governed by the Indian Limitation Act, 1877.*

84. (1) The Financial Commissioner may at any time call for the record of any case pending before, or disposed of by, any Revenue-officer or Revenue Court subordinate to him. Power to call for, examine and revise proceedings of Revenue-officers and Revenue Courts.

(2) A Commissioner or Collector may call for the record of any case pending before, or disposed of by, any Revenue-officer or Revenue Court under his control.

(3) If in any case in which a Commissioner or Collector has called for a record he is of opinion that the proceedings taken or the order or decree made should be modified or reversed, he shall submit the record with his opinion on the case for the orders of the Financial Commissioner.

(4) If, after examining a record called for by himself under sub-section (1) or submitted to him under sub-section (3) the Financial Commissioner is of opinion that it is inexpedient to interfere with the proceedings or the order or decree, he shall pass an order accordingly.

(5) If, after examining the record, the Financial Commissioner is of opinion that it is expedient to interfere with the proceedings or the order or decree on any ground on which the High Court in the exercise of its revisional jurisdiction may under the law for the time being in force interfere with the proceedings or an order or decree of a Civil Court, he shall fix a day for hearing the case, and may, on that or any subsequent day to which he may adjourn the hearing or which he may appoint in this behalf, pass such order as he thinks fit in the case.

(6) Except when the Financial Commissioner fixes under sub-section (5) a day for hearing the case, no party has any right to be heard before the Financial Commissioner when exercising his powers under this section.

* See now Act IX of 1908.

Procedure.

Procedure
of Revenue-
officers.

85. (1) The Local Government may make rules consistent with this Act for regulating the procedure of Revenue-officers under this Act in cases in which a procedure is not prescribed by this Act.

(2) The rules may provide, among other matters, for the mode of enforcing orders of ejection from, and delivery of possession of, immovable property, and rules providing for those matters may confer on a Revenue-officer all or any of the powers in regard to contempts, resistance and the like which a Civil Court may exercise in the execution of a decree whereby it has adjudged ejection from, or delivery of possession of, such property.

(3) The rules may also provide for the mode of executing orders as to costs, and may adapt to proceedings under this Act all or any **XVII** of the provisions of the Punjab Land Revenue Act, 1887, with 1887. respect to arbitration.

(4) Subject to the rules under this section, a Revenue-officer may refer any case which he is empowered to dispose of under this Act to another Revenue-officer for investigation and report, and may decide the case upon the report.

Persons by
whom ap-
pearances
may be made
before Rev-
enue-officers
as such and
not as Reve-
nue Courts.

86. (1) Appearances before a Revenue-officer as such, and applications to and acts to be done before him, under this Act may be made or done—

(a) by the parties themselves, or

(b) by their recognized agents or a legal practitioner:

Provided that the employment of a recognized agent or legal practitioner shall not excuse the personal attendance of a party to any proceeding in any case in which personal attendance is specially required by an order of the officer.

(2) For the purposes of sub-section (1), recognised agents shall be such persons as the Local Governemene may by notification declare in this behalf.

(3) The fees of a legal practitioner shall not be allowed as costs in any proceeding before a Revenue-officer under this Act, unless that officer considers, for reasons to be recorded by him in writing, that the fees should be allowed.

Costs.

87. (1) A Revenue-officer may give and apportion the costs of any proceeding under this Act in any manner he thinks fit;

(2) But if he orders that the costs of any such proceeding shall not follow the event, he shall record his reasons for the order.

Procedure of
Revenue
Courts.

88. (1) The Local Government may make rules consistent with **IV** of 1914. this Act for regulating the procedure of Revenue Courts in matters under this Act for which a procedure is not prescribed thereby, and may by any such rule direct that any provisions of the Code of Civil Procedure* shall apply, with or without modification, to all **XIV** of 1882, or any classes of cases before those Courts.

* See now Act V of 1908.

(2) Until rules are made under sub-section (1) and subject to those rules when made and to the provisions of this Act,—

(a) the Code of Civil Procedure shall, so far as it is applicable, apply to all proceedings in Revenue Courts whether before or after decree; and

(b) the Financial Commissioner shall, in respect of those proceedings, be deemed to be the High Court within the meaning of that Code, and shall, subject to the provisions of this Act, exercise, as regards the Courts under his control, all the powers of a High Court under the Code.

89. (1) A Revenue-officer or Revenue Court may summon any person whose attendance he or it considers necessary for the purpose of any application, suit or other business before him or it as a Revenue-officer or Revenue Court.

Power of Revenue-officer or Revenue Court to summon persons.

(2) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or, if the summons so allows, by his recognized agent or a legal practitioner.

(3) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as the Revenue-officer or Revenue Court may require.

90. (1) A summons issued by a Revenue-officer or Revenue Court shall, if practicable, be served (a) personally on the person to whom it is addressed, or failing him on (b) his recognized agent or (c) an adult male member of his family who is residing with him.

Mode of service of summons.

(2) If service cannot be so made, or if acceptance of service so made is refused, the summons may be served by posting a copy thereof at the usual or last known place of residence of the person to whom it is addressed, or, if that person does not reside in the district in which the Revenue-officer is employed or the Revenue Court is held, and the case to which the summons relates has reference to land in that district, then by posting a copy of the summons on some conspicuous place in or near the estate wherein the land is situate.

(3) If the summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable, it may, if the Revenue-officer or Revenue Court so directs, be served by delivery of a copy thereof to such of those persons as the officer or Court nominates in this behalf and by proclamation of the contents thereof for the information of the other persons interested.

(4) A summons may, if the Revenue-officer or Revenue Court so directs, be served on the person named therein, either in addition to, or in substitution for, any other mode of service, by forwarding the

summons by post in a letter addressed to the person and registered under Part III of the Indian Post Office Act, 1866.*

XIV of 1866.

(5) When a summons is so forwarded in a letter and it is proved that the letter was properly addressed and duly posted and registered, the officer or Court may presume that the summons was served at the time when the letter would be delivered in the ordinary course of post.

Mode of service of notice, order or proclamation or copy thereof.

91. A notice, order or proclamation, or copy of any such document, issued by a Revenue-officer or Revenue Court for service on any person shall be served in the manner provided in the last foregoing section for the service of a summons.

Mode of making proclamation.

92. When a proclamation relating to any land is issued by a Revenue-officer or Revenue Court, it shall, in addition to any other mode of publication which may be prescribed by any enactment for the time being in force, be made by beat of drum or other customary method, and by the posting of a copy thereof on a conspicuous place in or near the land to which it relates.

Joinder of tenants as parties to proceedings relating to rent.

93. (1) Any number of tenants cultivating in the same estate may, in the discretion of the Revenue-officer or Revenue Court and subject to any rules which the Local Government may make in this behalf, be made parties to any proceeding under Chapter III;

(2) But a decree or order shall not be made in any such proceeding unless the Revenue-officer or Revenue Court is satisfied that all the parties thereto have had an opportunity of appearing and being heard.

(3) A decree or order made in any such proceeding shall specify the extent to which each of the tenants is affected thereby.

Exception of suits under this Act from operation of certain enactments. Payment into Court of money admitted to be due to third person.

94. Nothing in section 424 of the Code of Civil Procedure, † or in section 36 of the Punjab Municipal Act, 1884, ‡ shall be construed to apply to a suit of a class mentioned in section 77 of this Act.

XIV of 1882,
XIII of
1884.

95. (1) When a defendant admits that money is due from him on account of rent, but pleads that it is due not to the plaintiff but to a third person, the Court shall, except for special reasons to be recorded by it, refuse to take cognizance of the plea unless the defendant pays into Court the amount so admitted to be due.

(2) Where such a payment is made the Court shall forthwith cause notice of the payment to be served on the third person.

(3) Unless the third person within three months from the receipt of the notice institutes a suit against the plaintiff and therein obtains an order restraining payment of the money, it shall be paid to the plaintiff on his application to the Court therefor.

(4) Nothing in this section shall affect the right of any person to recover from the plaintiff money paid to him under sub-section (3).

* See now the Indian Post Office Act, 1898 (VI of 1898).

† See now the Act V of 1908, section 80.

‡ See now the Punjab Municipal Act, 1911 (III of 1911), section 49.

(5) When a defendant pays money into Court under this section the Court shall give the defendant a receipt, and the receipt so given shall operate as an acquittance in the same manner and to the same extent as if it had been given by the plaintiff or the third person, as the case may be.

96. A Court passing a decree for an arrear of rent may, on the oral application of the decree-holder, order execution thereof against the movable property of the tenant, and against any uncut or un-gathered crops on the tenancy in respect of which the arrear is decreed.

Execution of decrees for arrears of rent.

97. A tenant shall not during the continuance of his occupancy be liable to imprisonment on the application of his landlord in execution of a decree for an arrear of rent.

Prohibition of imprisonment of tenants in execution of decrees for arrears of rent.

98. (1) If, in any proceeding pending before a Revenue Court exercising original, appellate or revisional jurisdiction, it appears to the Court that any question in issue is more proper for decision by a Civil Court, the Revenue Court may, with the previous sanction of the Court, if any, to the control of which it is immediately subject, require, by order in writing, any party to the proceeding to institute, within such time as it may fix in this behalf, a suit in the Civil Court for the purpose of obtaining a decision on the question, and, if he fails to comply with the requisition, may decide the question as it thinks fit.

Power to refer party to Civil Court.

(2) If the party institutes the suit in compliance with the requisition, the Revenue Court shall dispose of the proceeding pending before it in accordance with the final decision of the Civil Court of first instance or appeal, as the case may be.

99. (1) If the presiding officer of a Civil or Revenue Court in which a suit has been instituted doubts whether he is precluded from taking cognizance of the suit, he may refer the matter through the District Judge or Commissioner, or, if he is a District Judge or Commissioner, directly to the High Court.

Power to refer to High Court questions as to jurisdiction.

(2) On any such reference being made, the High Court may order the presiding officer either to proceed with the suit or to return the plaint for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit.

(3) The order of the High Court on any such reference shall be conclusive as against persons who are not parties to the suit as well as against persons who are parties thereto.

100. (1) In either of the following cases, namely:—

(a) if it appears to a Civil Court that a Court under its control has determined a suit of a class mentioned in section 77 which under the provisions of that section should have been heard and determined by a Revenue Court, or

Power of High Court to validate proceedings made under mistake as to jurisdiction.

- (b) if it appears to a Revenue Court that a Court under its control has determined a suit which should have been heard by a Civil Court,

the Civil Court or Revenue Court, as the case may be, shall submit the record of the suit to the High Court.

(2) If on perusal of the record it appears to the High Court that the suit was so determined in good faith, and that the parties have not been prejudiced by the mistake as to jurisdiction, the High Court may order that the decree be registered in the Court which had jurisdiction.

(3) If it appears to the High Court, otherwise than on submission of a record under sub-section (1) that a Civil Court under its control has determined a suit of a class mentioned in section 77 which under the provisions of that section should have been heard and determined by a Revenue Court, the High Court may pass any order which it might have passed if the record had been submitted to it under that sub-section.

(4) With respect to any proceeding subsequent to decree, the High Court may make such order for its registration in a Revenue Court or Civil Court as in the circumstances appears to be just and proper.

(5) An order of the High Court under this section shall be conclusive as against persons who were not parties to the suit or proceeding as well as against persons who were parties thereto, and the decree or proceeding to which the order relates shall have effect as if it had been made or had by the Court in which the order has required it to be registered.

(6) The provisions of this section shall apply to any suit instituted on or after the first day of November, 1884, and to proceedings arising out of any such suit.

Miscellaneous.

Place of sitting.

101. (1) An Assistant Collector may exercise his powers under this Act at any place within the limits of the district in which he is employed.

(2) Any other Revenue-officer or Revenue Court may only exercise his or its powers under this Act within the local limits of his or its jurisdiction.

Holidays.

102. (1) The Financial Commissioner, with the approval of the Local Government, shall publish in the local official Gazette before the commencement of each calendar year a list of days to be observed in that year as holidays by all or any Revenue-officers and Revenue Courts.

(2) A proceeding held before a Revenue-officer or Revenue Court on a day specified in the list as a day to be observed by the officer or Court as a holiday shall not be invited by reason only of its having been held on that day.

103. When a Collector dies or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district under any orders which may be generally or specially issued by the Local Government in this behalf shall be deemed to be a Collector under this Act.

Discharge of duties of Collector dying or being disabled.

104. When a Revenue-officer of any class who, either as such or as a Revenue Court, has under the foregoing provisions of this Act any powers to be exercised in any local area is transferred from that local area to another as a Revenue-officer or Revenue Court of the same or a higher class, he shall continue to exercise those powers in that other local area, unless the Local Government otherwise directs or has otherwise directed.

Retention of powers by Revenue-officers on transfer.

105. (1) The Local Government may by notification confer on any person—

Conferral of powers of Revenue-officer or Revenue Court.

(a) all or any of the powers of a Financial Commissioner, Commissioner or Collector under this Act, or

(b) all or any of the powers with which an Assistant Collector of either grade is, or may be, invested thereunder,

and may by notification withdraw any powers so conferred.

(2) A person on whom powers are conferred under sub-section (1) shall exercise those powers within such local limits and in such classes of cases as the Local Government may direct, and, except as otherwise directed by the Local Government, shall for all purposes connected with the exercise thereof be deemed a Financial Commissioner, Commissioner, Collector or Assistant Collector, as the case may be.

(3) Before conferring powers on the Judge of a Civil Court under sub-section (1), the Local Government shall consult the High Court.

(4) If any of the powers of a Collector under section 78, section 79, section 80 or section 82 are conferred on an Assistant Collector, they shall, unless the Local Government by special order otherwise directs, be exercised by him subject to the control of the Collector.

106. (1) The Financial Commissioner may, in addition to the other rules which may be made by him under this Act, make rules consistent with this Act and any other enactment for the time being in force,—

Power for Financial Commissioner to make rules.

(a) determining, notwithstanding anything in any record-of-rights, the number and amount of the instalments and the times by and at which rent is to be paid;

(b) for the guidance of Revenue-officers in determining, for the purposes of this Act, the amount of the land-revenue of any land;

(c) prescribing, for all or any of the territories to which this Act extends, the periods during which, in proceedings held under this Act, a Revenue-officer or Revenue Court is not, except for reasons of urgency

to be recorded, to issue any process of arrest against a tenant or against a landowner who cultivates his own land;

- (d) regulating the procedure in cases where persons are entitled to inspect records of Revenue-offices or Revenue Courts, or to obtain copies of the same, and prescribing the fees payable for searches and copies;
- (e) prescribing forms for such books, entries, statistics and accounts as the Financial Commissioner thinks necessary to be kept, made or compiled in Revenue-offices or Revenue Courts or submitted to any authority;
- (f) declaring what shall be the language of any of those offices and Courts, and determining in what cases persons practising in those offices and Courts shall be permitted to address the presiding officers thereof in English; and
- (g) generally for the guidance of Revenue-officers and other persons in matters connected with the enforcement of this Act.

(2) Until rules are made under clause (a) of sub-section (1), rent shall be payable by the instalments and at the times by and at which it is now payable.

(3) Rules made by the Financial Commissioner under this or IV of 1914, any other section of this Act shall be made subject to the control of the Local Government.

Rules to be made after previous publication. Powers exercisable by Financial Commissioner from time to time.

107. The power to make any rules under this Act is subject to the condition of the rules being made after previous publication.

108. All powers conferred by this Act on the Financial Commissioner may be exercised from time to time as occasion requires.

CHAPTER VIII.

EFFECT OF THIS ACT ON RECORDS-OF-RIGHTS AND AGREEMENTS.

Nullity of certain entries in records-of-rights.

109. An entry in any record-of-rights providing—

- (a) that a landlord may prevent a tenant from making, or eject him for making, such improvements on his tenancy as he is entitled to make under this Act, or
- (b) that a tenant ejected from his tenancy shall not be entitled to compensation for improvements or for disturbance in any case in which he would under this Act be entitled to compensation therefor, or
- (c) that a landlord may eject a tenant otherwise than in accordance with the provisions of this Act,

shall be void to that extent.

110. (1) Nothing in any agreement made between a land- lord and a tenant after the passing of this Act shall—

Nullity of certain agreements contrary to the Act.

- (a) override any of the provisions of this Act with respect to the acquisition of a right-of-occupancy, or the reduction, remission or suspension of rent, or the enhancement of the rent of a tenant having a right-of-occupancy under section 5 or section 6, or
- (b) take away or limit the right of a tenant as determined by this Act to make improvements and claim compensation therefor, or, where compensation for disturbance can be claimed under this Act, to claim such compensation, or
- (c) entitle a landlord to eject a tenant otherwise than in accordance with the provisions of this Act.

(2) Nothing in clause (a) of sub-section (1) shall apply to an agreement by which a tenant binds himself to pay an enhanced rent in consideration of an improvement which has been, or is to be, made in respect of his tenancy by, or at the expense of, his landlord, and to the benefit of which the tenant is not otherwise entitled.

111. Save as expressly provided in this Act, nothing in this Act shall affect the operation of any agreement between a landlord and a tenant, when the agreement either is in writing or has been recorded in a record-of-rights before the passing of the Punjab Land Revenue Act, 1887, or been entered by order of a Revenue-officer in a record-of-rights or annual record under the provisions of that Act.

Saving of other agreements when in writing.

XVII of 1887,

112. An entry made with respect to any of the following matters before the eighteenth day of November, 1871, and attested by the proper officer, in the record of a regular settlement sanctioned by the Local Government, namely:—

Effect of certain entries made in records-of-rights before November 1871.

- (a) the enhancement or abatement of the rent of a tenant having a right of occupancy, or the commutation of rent in kind into rent in money or of rent in money into rent in kind, or the taking of rent in kind by division or appraisalment of the produce or other procedure of a like nature, or
- (b) the letting or under-letting of land in which there is a right of occupancy by the tenant having that right, or the alienation of or succession to land in which such a right subsists,

shall be deemed to be an agreement within the meaning of the last foregoing section.

THE SCHEDULE.

REPEALED BY ACT XII OF 1891.

THE PUNJAB ALIENATION OF LAND ACT, 1900.

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ACT No. XIII OF 1900.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 19th
October, 1900.)

As amended by Punjab Act, I of 1907, Act XVIII of 1919, Act
XXXVIII of 1920 and Punjab Act, I of 1931.

AN ACT TO AMEND THE LAW RELATING TO
AGRICULTURAL LAND IN THE PUNJAB.

WHEREAS it is expedient to amend the law relating to
agricultural land in the Punjab; It is hereby enacted
as follows:—

I.—PRELIMINARY.

1. (1) This Act may be called the Punjab Alienation of Land
Act, 1900.

Short title,
extent and
commence-
ment.

(2) It extends to all the territories for the time being adminis-
tered by the Lieutenant-Governor of the Punjab; and

(3) It shall come into force on such day as the Governor-
General in Council may, by notification in the "Gazette of India"
direct.

2. In this Act, unless there is anything repugnant in the
subject or context,—

(1) *Repealed by Punjab Act I of 1907, section 2 (1).*

(2) all expressions which are defined by section 4 of the
Punjab Tenancy Act, 1887, or by section 3 of the
Punjab Land Revenue Act, 1887, shall, subject to the

XVI of 1887.
XVII of 1887

(1) provisions of this Act, have the meanings assigned to
them in the said sections respectively; and the ex-
pressions "record-of-rights" and "annual record"
shall have the meanings assigned to them respectively
in Chapter IV of the said last-mentioned Act.

(3) the expression "land" means land which is not
occupied as the site of any building in a town or
village and is occupied or let for agricultural pur-
poses or for purposes subservient to agriculture or for
pasture, and includes—

(a) the sites of buildings and other structures on
such land;

(b) a share in the profits of an estate or holding;

(c) any dues or any fixed percentage of the land-
revenue payable by an inferior landowner
to a superior landowner;

(d) a right to receive rent;

- (e) any right to water enjoyed by the owner or occupier of land as such; and
- (f) any right of occupancy: (I of 1907.)
- (4) the expression "permanent alienation" includes sales, exchanges, gifts, wills and grants of occupancy rights. (I of 1907.)
- (5) the expression "usufructuary mortgage" means a mortgage by which the mortgagor delivers possession of the mortgaged land to the mortgagee and authorizes him to retain such possession until payment of the mortgage-money, and to receive the rents and profits of the land and to appropriate them in lieu of interest or in payment of the mortgage-money or partly in lieu of interest and partly in payment of the mortgage-money; and
- (6) the expression "conditional sale" includes any agreement whereby in default of payment of the mortgage-money or interest at a certain time the land will be absolutely transferred to the mortgagee.

Application of Act to sections 53 and 54, Act XVI, 1887. **2-A.** Notwithstanding anything contained in sections 53 and 54 of the Punjab Tenancy Act, 1887, when a landlord makes a claim to exercise the rights thereby conferred upon him the provisions of this Act shall apply thereto. (I of 1907.)

II.—PERMANENT ALIENATION OF LAND.

Sanction of Deputy Commissioner required to certain permanent alienations.

- 3.** (1) A person who desires to make a permanent alienation of his land shall be at liberty to make such alienation where—
- (a) the alienor is not a member of an agricultural tribe; or
- (b) *Repealed by Punjab Act I of 1907, section 4 (I);*
- (c) the alienor is a member of an agricultural tribe and the alienee is a member of the same tribe or of a tribe in the same group;
- [*Proviso to this sub-section repealed by Punjab Act I 1907, section 4 (I).*]
- (2) Except in the cases provided for in sub-section (1), a permanent alienation of land shall not take effect as such unless and until sanction is given thereto by a Deputy Commissioner;
- " Provided that—
- (1) sanction may be given after the act of alienation is otherwise completed, and (I of 1907.)
- (2) sanction shall not be necessary in the case of—
- (a) a sale of a right of occupancy by a tenant to his landlord, or
- (b) a gift made in good faith for a religious or charitable purpose, whether *inter vivos* or by will."

(3) The Deputy Commissioner shall enquire into the circumstances of the alienation and shall have discretion to grant or refuse the sanction required by sub-section (2).

I of 1907.

4. The Local Government shall, by notification in the local official Gazette, determine what bodies of persons in any district or group of districts are to be deemed to be agricultural tribes or groups of agricultural tribes for the purposes of this Act. Agricultural tribes.

5. When a Deputy Commissioner sanctions a permanent alienation of land, his order shall not be taken to decide or affect any question of title, or any question relating to any right or right of pre-emption. Saying for rights in land alienated.

III.—TEMPORARY ALIENATIONS OF LAND.

6. (1) If a member of an agricultural tribe mortgages his land and the mortgagee is not a member of the same tribe, or of a tribe in the same group, the mortgage shall be made in one of the following forms:— Forms of mortgage permitted in certain cases.

(a) in the form of a usufructuary mortgage, by which the mortgagor delivers possession of the land to the mortgagee and authorizes him to retain such possession and to receive the rents and profits of the land in lieu of interest and towards payment of the principal, on condition that after the expiry of the term agreed on, or (if no term is agreed on, or if the term agreed on exceeds twenty years), after the expiry of twenty years, the land shall be redelivered to the mortgagor; or

(b) in the form of a mortgage without possession, subject to the condition that, if the mortgagor fails to pay principal and interest according to his contract, the mortgagee may apply to the Deputy Commissioner to place him in possession for such term, not exceeding twenty years, as the Deputy Commissioner may consider to be equitable, the mortgage to be treated as a usufructuary mortgage for the term of the mortgagee's possession and for such sum as may be due to the mortgagee on account of the balance of principal due and of interest due not exceeding the amount claimable as simple interest at such rate and for such period as the Deputy Commissioner thinks reasonable; or

(c) in the form of a written usufructuary mortgage by which the mortgagor recognises the mortgagee as a landlord and himself remains in cultivating occupancy of the land as a tenant subject to the payment of rent at such rate as may be agreed upon not exceeding sixteen annas per rupee of the amount of the land-revenue in addition to the amount of the land-revenue of the tenancy and the rates and cesses chargeable thereon and for such term as may be agreed on, the mortgagor

having no right to alienate his right of cultivating occupancy and the mortgagee having no right to eject the mortgagor unless on the grounds mentioned in section 39 of the Punjab Tenancy Act, 1887; or XVI of 1887.

(d) in any form which the Local Government may, by general or special order, permit to be used.

(2) If in the case of a mortgagee in form (c) the mortgagor is ejected or relinquishes or abandons cultivating occupancy of the land, the mortgage shall take effect as a usufructuary mortgage in form (a) for such term not exceeding twenty years from the date of ejection, relinquishment or abandonment, and for such sum of money as the Deputy Commissioner considers to be reasonable.

(3) The Deputy Commissioner, if he accepts the application of a mortgagee under sub-section (1) (b), shall have power to eject the mortgagor, and as against the mortgagor to place the mortgagee in possession. (1 of 1907.)

Rules apply-
ing to per-
mitted mort-
gages.

7. In the case of mortgages made under section 6—

(1) no interest shall accrue during the period for which the mortgagee is in possession of the land or in receipt of rent;

(2) if the mortgage is in form (a) or form (b), then at the end of such period of possession the mortgage-debt shall be extinguished;

(3) the mortgagor may redeem his land at any time during the currency of the mortgage, on payment of the mortgage-debt or, in the case of a mortgage in form (a) or form (b), of such proportion of the mortgage-debt as the Deputy Commissioner determines to be equitable;

(4) in the case of a usufructuary mortgage the mortgagor shall not be deemed to bind himself personally to repay the mortgage-money; and

(5) if a mortgagor who has applied to the Deputy Commissioner under sub-section (3) proves to the satisfaction of the Deputy Commissioner that he has paid the mortgage-debt or such proportion of the mortgage-debt as the Deputy Commissioner has determined to be equitable, or deposits with the Deputy Commissioner the amount of such mortgage-debt or of such proportion thereof, the redemption of the land shall be deemed to have taken place, and the Deputy Commissioner shall have power to eject the mortgagee, if in possession, and as against the mortgagee to place the mortgagor in possession. (1 of 1907.)

8. (1) In a mortgage made under section 6, the following conditions may be added by agreement between the parties;— Conditions in permitted mortgages.

(a) a condition fixing the time of the agricultural year at which a mortgagor redeeming his land may resume possession thereof;

(b) conditions limiting the right of a mortgagor or mortgagee in possession to cut, sell or mortgage trees or to do any act affecting the permanent value of the land; and

(c) any condition which the Local Government by general or special order may declare to be admissible.

(2) In mortgages made under section 6 any condition not permitted by or under this Act shall be null and void.

9. (1) If a member of an agricultural tribe makes a mortgage of his land in any manner or form not permitted by or under this Act, the Deputy Commissioner shall have authority to revise and alter the terms of the mortgage so as to bring it into accordance with such form of mortgage permitted by or under this Act as the mortgagee appears to him to be equitably entitled to claim. Power to revise mortgage made in form not permitted.

(2) If a member of an agricultural tribe has before the commencement of this Act made a mortgage of his land in which there is a condition intended to operate by way of conditional sale, the Deputy Commissioner shall be empowered at any time during the currency of the mortgage to put the mortgagee to his election whether he will agree to the said condition being struck out, or to accept in lieu of the said mortgage a mortgage which may at the mortgagee's option be either in form (a) or in form (b) as permitted by section 6 and which shall be made for such period not exceeding the period permitted by the said section and for such sum of money as the Deputy Commissioner considers to be reasonable.

(3) If proceedings for the enforcement of a condition intended to operate by way of conditional sale are instituted or are pending at the commencement of this Act in any Civil Court or if a suit is instituted in any Civil Court on a mortgage to which sub-section (1) or sub-section (2) applies, the Court shall refer the case to the Deputy Commissioner with a view to the exercise of the power conferred by the sub-section applying thereto.

(I of 1907)

(4) When a mortgagee put to his election under sub-section (2) agrees to accept in lieu of his mortgage, a mortgage in form (a) or in form (b) as permitted by section 6 for the period and for the sum of money considered by the Deputy Commissioner to be reasonable, and the mortgagor cannot be found, or fails to appear when duly served with notice to do so, or refuses or neglects to execute such mortgage, the Deputy Commissioner shall have authority to execute such mortgage on such terms as to costs as he may fix and the mortgage so executed shall have effect as if it had been executed by the mortgagor. The Deputy Commissioner may for any reason

which he deems sufficient set aside any *ex-parte* proceedings taken under this sub-section.

Future mortgage by way of conditional sale not permitted.

Leases and farms.

Restriction on power to make further temporary alienation.

Ejectment of mortgagee, lessee or farmer remaining in possession after term.

Effect of permanent alienation made without sanction.

Sanction of Deputy Commissioner required to certain alienations of, or charges on, produce of land.

10. In any mortgage of land made after the commencement of this Act any condition which is intended to operate by way of conditional sale shall be null and void.

11. Any member of an agricultural tribe may make a lease or farm of his land for any term not exceeding twenty years, and any lease or farm made by a member of an agricultural tribe for a longer term than twenty years shall, if the lessee or farmer is not a member of the same tribe or of a tribe in the same group, be deemed to be a lease or farm for the term permitted by this section.

12. (1) During the currency of a mortgage made under section 6 in form (a) or form (b) or of a lease or farm under this Act, the owner shall be at liberty to make a further temporary alienation of the same land for such term as together with the term of the current mortgage, lease or farm will make up a term not exceeding the full term of twenty years.

(2) Any such further temporary alienation, if made for a longer term than is permitted by this section, shall be deemed to be a temporary alienation for the term permitted by this section.

13. If a mortgagee, lessee or farmer holding possession under a mortgage made under section 6 or under a lease or farm made under section 11 or under a mortgage, lease or farm made under section 12 remains in possession after the expiry of the term for which he is entitled to hold under his mortgage, lease or farm, the Deputy Commissioner may, of his own motion or on the application of the person entitled to possession, eject such mortgagee, lessee or farmer and place the person so entitled in possession.

IV.—GENERAL PROVISIONS.

14. Any permanent alienation which under section 3 is not to take effect as such until the sanction of a Deputy Commissioner is given thereto shall, until such sanction is given or if such sanction has been refused, take effect as a usufructuary mortgage in form (a) permitted by section 6 for such term not exceeding twenty years and on such conditions as the Deputy Commissioner considers to be reasonable.

15. Every agreement whereby a member of an agricultural tribe purports to alienate or charge the produce of his land or any part of, or share in, such produce for more than one year shall not take effect for more than one year from the date of the agreement unless the sanction of a Deputy Commissioner is given thereto, and shall, until such sanction is given or if such sanction is refused, take effect as if it had been made for one year.

Explanation.—The produce of land means—

(a) crops and other products of the earth standing or un-gathered on the holding;

(b) crops and other products of the earth which have been grown on the land during the past year and have been reaped or gathered.

16. (1) No land belonging to a member of an agricultural tribe shall be sold in execution of any decree or order of any Civil or Revenue Court, whether made before or after the commencement of this Act. Execution-sale of land-forbidden.

Punjab Act, I
of 1931.

(2) Notwithstanding anything contained in any other enactment for the time being in force no land belonging to a member of an agricultural tribe shall, in execution of any decree or order of any civil or revenue court, whether made before or after the enactment of this sub-section, be leased or farmed for a period exceeding 20 years or mortgaged except in one of the forms permitted by section 6.

(3) Nothing in this section shall affect the right of Government to recover arrears of land revenue, or any dues which are recoverable as arrears of land-revenue, in any manner now permitted by law.

III of 1877.

17. Notwithstanding anything in the Indian Registration Act, 1877*, or in any rules made under section 69 of that Act,—

- (1) an instrument which contravenes any provision of this Act shall not be admitted to registration;
- (2) an instrument which records or gives effect to any transaction which requires the sanction of a Deputy Commissioner shall not be admitted to registration until a certified copy of the order giving such sanction is produced to the officer empowered to register such instrument.

XVII of
1887.

18. (1) Where, by reason of any transaction which under this Act requires the sanction of a Deputy Commissioner, a person claims to have acquired a right the acquisition whereof he is bound to report under section 34 of the Punjab Land Revenue Act, 1887, such person shall, in making his report, state whether the sanction required has been obtained or not, and his right so acquired shall not be entered in the record-of-rights or in any annual record until he produces such evidence of the order by which such sanction is given as may be required by any rules made under this Act. Record-of-rights and annual record.

(2) No right claimed by reason of any transaction or condition which is declared by this Act to be null and void shall be entered in the record-of-rights or in any annual record.

XVII of 1887,

19. Subject to the provisions of this Act, the provisions of Chapter II of the Punjab Land Revenue Act, 1887, shall, in so far as they are applicable, apply to the proceedings of Revenue-officers under this Act. Application of certain provisions of the Punjab Land Revenue Act, 1887.

*See now the Indian Registration Act, 1908 (XVI of 1908).

Appearance of legal practitioners forbidden. 20. No legal practitioner shall appear on behalf of any party interested in any proceeding before a Revenue-officer under this Act:

Explanation.—The term “legal practitioner” includes a *mukhtar*.

Jurisdiction of Civil Court excluded. 21. (1) A Civil Court shall not have jurisdiction in any matter which the Local Government or a Revenue-officer is empowered by this Act to dispose of.

(2) No Civil Court shall take cognisance of the manner in which the Local Government or any Revenue officer exercises any power vested in it or in him by or under this Act.

Civil Court to send copy of decree or order to Deputy Commissioner. *21-A. (1) Notwithstanding anything contained in the Code (I of 1907) of Civil Procedure or in any other Act for the time being in force, every Civil Court which passes a decree or order involving (1) the permanent alienation of his land by a member of an agricultural tribe, or (2) the mortgage by a member of an agricultural tribe of his land when the mortgagee is not a member of the same tribe or of a tribe in the same group, shall send to the Deputy Commissioner a copy of such decree or order.

Action to be taken by Deputy Commissioner when decree or order passed contrary to Act. (2) When it appears to the Deputy Commissioner that any Civil Court has, either before or after the date when this section comes into operation, passed a decree or order contrary to any of the provisions of this Act, the Deputy Commissioner may apply for the revision of such decree or order to the Court, if any, to which an appeal would lie from such decree or order or in which an appeal could have been instituted at the time when the decree or order was passed, or in any other case to the High Court. And when the Court finds that such decree or order is contrary to any of the provisions of this Act it shall alter it so as to make it consistent with this Act. Such application shall be made within two months of the date upon which the Deputy Commissioner is informed of such decree or order.

(3) When any such appellate Court passes an order rejecting such application the Deputy Commissioner may, within two months after the date upon which he is informed of such order, apply to the High Court for revision thereof.

(4) Every Civil Court which passes an order on any application made under this section shall forthwith send a copy thereof to the Deputy Commissioner.

(5) No stamp shall be required upon such applications, and the provisions of the Code of Civil Procedure as regards appeals shall apply so far as may be to the procedure of the Court on receipt of such application: XIV of 1882.

Provided that no appearance by or on behalf of the Deputy Commissioner shall be deemed necessary for the disposal of the application.

22. In sub-section (3) of section 77 of the Punjab Tenancy Act, 1887, the following words shall be added to clause (c) of the First Group of suits therein mentioned, namely:—

Addition to section 77, Act XVI, 1887.

“ and suits relating to the rent to be paid under a mortgage made in accordance with form (c) as prescribed by section 6 of the Punjab Alienation of Land Act, 1900.”

23. The powers conferred by this Act upon a Deputy Commissioner may be exercised by a Revenue-officer of higher rank, or by any officer authorised by the Local Government in this behalf.

Exercise of powers of Deputy Commissioner.

Devolution Act, XXXVIII of 1920.

24. The Local Government, may, by notification in the local official Gazette, exempt any district or part of a district or any person or class of persons from the operation of this Act or of any of the provisions thereof.

Exemption.

25. (1) The Local Government may make rules for carrying into effect the purposes of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, the Local Government may make rules prescribing the Revenue-officers to whom applications may be made, and the manner and form in which such applications shall be made and disposed of.

PUNJAB PRE-EMPTION ACT, 1913.

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7. Exists under certain conditions in urban immoveable property.
8. Local Government may exclude areas from pre-emption.
9. Exclusion of pre-emption in respect of certain alienations.
10. Party to alienation cannot claim pre-emption.
11. Sum deposited by pre-emptor not to be attached.

CHAPTER III.

PERSONS IN WHOM THE RIGHT OF PRE-EMPTION VESTS.

12. The Law determining the right of pre-emption.
13. Joint right of pre-emption how exercised.
14. Limit of exercise of right in respect of land sold by member of an agricultural tribe.
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17. Exercise of right of pre-emption where several persons equally entitled.
18. Provisions of sections 15 and 17 applicable to foreclosures *mutatis mutandis*.

CHAPTER IV.

PROCEDURE.

SECTIONS.

19. Notice to pre-emptors.
20. Notice by pre-emptor to vendor.
21. Suit for pre-emption.
22. Plaintiff may be called on to make deposit or to file security.
23. Special conditions relating to sales of agricultural land.
24. Procedure on determination of the said issues.
25. Fixing of price for purposes of suit in case of sales.
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27. " Market value " how to be determined.
28. Concurrent hearing of suits.
29. Copy of decree to be sent to Deputy Commissioner: application for revision.

CHAPTER V.

LIMITATION.

30. Limitation.

PUNJAB PRE-EMPTION ACT No. I OF 1913.

PASSED BY THE LIEUTENANT-GOVERNOR OF THE PUNJAB IN COUNCIL.

(Received the assent of His Honour the Lieutenant-Governor on the 8th February 1913 and that of His Excellency the Viceroy and Governor-General on the 1st March 1913; the Governor-General's assent was first published in the " Punjab Government Gazette " of 14th March 1913.)

As amended by Punjab Act II of 1928.

WHEREAS it is expedient to amend the law relating to pre-emption in the Punjab;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Punjab Pre-emption Act, 1913. Short title and local extent.

(2) It extends to the Punjab.

2. (1) The Punjab Pre-emption Act, 1905, is hereby repealed. Repeal of certain enactments.

V of 1908. (2) Nothing in this Act shall affect the provisions of Order 21, rule 88, of the Code of Civil Procedure, 1908, or sections 53 and XVI of 1887. 54 of the Punjab Tenancy Act, 1887.

(3) Notwithstanding anything to the contrary in section 4 of the Punjab General Clauses Act, 1898, the Courts shall in all suits, appeals and proceedings pending at the commencement of this Act give effect, so far as may be, to the procedure prescribed by this Act.

3. In this Act, unless a different intention appears from the Definitions. subject or context,—

(1) ' agricultural land ' shall mean land as defined in the Punjab Alienation of Land Act, 1900 (as amended by Act I of 1907), but shall not include the rights of a mortgagee, whether usufructuary or not, in such land;

(2) ' village immoveable property ' shall mean immoveable property within the limits of a village other than agricultural land;

(3) ' urban immoveable property ' shall mean immoveable property within the limits of a town, other than agricultural land. For the purposes of this Act a specified place shall be deemed to be a town (a) if so declared by the Local Government by notification in the official Gazette, or (b) if so found by the Courts;

- (4) ' member of an agricultural tribe ' and ' group of agricultural tribes ' shall have the meanings assigned to them respectively under the Punjab Alienation of Land Act, 1900. XIII of 1900.
- (5) sale shall not include—
- (a) a sale in execution of a decree for money or of an order of a Civil, Criminal or Revenue Court or of a Revenue-officer,
- (b) the creation of an occupancy tenancy by a landlord, whether for consideration or otherwise;
- (6) any expression which is defined by section 3 of the Punjab Land Revenue Act, 1887, shall, subject to the XVII of 1887. provisions of this Act, have the meaning assigned to it in the said section.

CHAPTER II.

GENERAL PROVISIONS.

Right of pre-emption, application of—

4. The right of pre-emption shall mean the right of a person to acquire agricultural land or village immoveable property or urban immoveable property in preference to other persons, and it arises in respect of such land only in the case of sales and in respect of such property only in the case of sales or of foreclosures of the right to redeem such property.

Nothing in this section shall prevent a Court from holding that an alienation purporting to be other than a sale is in effect a sale.

No right of pre-emption in respect of certain buildings.

5. No right of pre-emption shall exist in respect of the sale of or the foreclosure of a right to redeem—

- (a) a shop, serai or katra;
- (b) a dharamsala, mosque or other similar building.

Exists in agricultural land and village immoveable property.

6. A right of pre-emption shall exist in respect of agricultural land and village immoveable property, but every such right shall be subject to all the provisions and limitations in this Act contained.

Exists under certain conditions in urban immoveable property.

7. Subject to the provisions of section 5, a right of pre-emption shall exist in respect of urban immoveable property in any town or sub-division of a town when a custom of pre-emption is proved to have been in existence in such town or sub-division at the time of the commencement of this Act, and not otherwise.

Local Government may exclude areas from pre-emption.

8. (1) Except as may otherwise be declared in the case of any agricultural land in a notification by the Local Government, no right of pre-emption shall exist within any cantonment.

(2) The Local Government may declare by notification that in any local area or with respect to any land or property or class of land or property or with respect to any sale or class of sales no right of pre-emption or only such limited right as the Local Government may specify shall exist.

9. Notwithstanding anything in this Act, a right of pre-emption shall not exist in respect of any sale made by or to the Government or by or to any local authority or to any company under the provisions of Part VII of the Land Acquisition Act, 1894, or in respect of any sale sanctioned by the Deputy Commissioner under section 3 (2) of the Punjab Alienation of Land Act, 1900.

I of 1894.

XIII of 1900.

Exclusion of pre-emption in respect of certain alienation.

10. In the case of a sale by joint-owners, no party to such sale shall be permitted to claim a right of pre-emption.

Party to alienation cannot claim pre-emption.

11. No sum deposited in or paid into Court by a pre-emptor under the provisions of this Act or of the Code of Civil Procedure shall, while it is in the custody of the Court, be liable to attachment in execution of a decree, or order of a Civil, Criminal or Revenue Court or of a Revenue-officer.

V of 1908.

Sum deposited by pre-emptor not to be attached.

CHAPTER III.

PERSONS IN WHOM THE RIGHT OF PRE-EMPTION VESTS.

12. In respect of all sales and foreclosures not completed before the commencement of this Act the right of pre-emption shall be determined by the provisions of this Act; but in respect of all sales and foreclosures completed before the commencement of this Act the right of pre-emption shall be determined by the law in force at the time of such completion.

The Law determining the right of pre-emption.

13. Whenever according to the provisions of this Act a right of pre-emption vests in any class or group of persons, the right may be exercised by all the members of such class or groups jointly, and, if not exercised by them all jointly, by any two or more of them jointly, and, if not exercised by any two or more of them jointly, by them severally.

Joint right of pre-emption how exercised.

14. No person other than a person who was at the date of sale a member of an agricultural tribe in the same group of agricultural tribes as the vendor shall have a right of pre-emption in respect of agricultural land sold by a member of an agricultural tribe.

Limit of exercise of right in respect of land sold by member of an agricultural tribe.

15. Subject to the provisions of section 14 the right of pre-emption in respect of agricultural land and village immoveable property shall vest—

Person in whom pre-emption vests in respect of sales

(a) where the sale is by a sole owner or occupancy tenant or, in the case of land or property jointly owned or held, is by all the co-sharers jointly, in the persons in order of succession, who but for such sale would be entitled, on the death of the vendor or vendors, to inherit the land or property sold:

of agricultural land and village-immoveable property.

- (b) where the sale is of a share out of joint land or property, and is not made by all the co-sharers jointly,—
- firstly*, in the lineal descendants of the vendor in order of succession;
 - Secondly*, in the co-sharers, if any, who are agnates, in order of succession;
 - thirdly*, in the persons, not included under *firstly* or *secondly* above, in order of succession, who but for such sale would be entitled, on the death of the vendor, to inherit the land or property sold;
 - fourthly*, in the co-sharers:
- (c) if no person having a right of pre-emption under clause (a) or clause (b) seeks to exercise it,—
- firstly*, when the sale affects the superior or inferior proprietary right and the superior right is sold, in the inferior proprietors, and when the inferior right is sold, in the superior proprietors;
 - secondly*, in the owners of the *patti* or other sub-division of the estate within the limits of which such land or property is situate;
 - thirdly*, in the owners of the estate;
 - fourthly*, in the case of a sale of the proprietary right in such land or property, in the tenants (if any) having rights of occupancy in such land or property;
 - fifthly*, in any tenant having a right of occupancy in any agricultural land in the estate within the limits of which the land or property is situated.

Explanation.—In the case of sale by a female of land or property to which she has succeeded on a life tenure through her husband, son, brother or father, the word 'agnates' in this section shall mean the agnates of the person through whom she has so succeeded.

16. The right of pre-emption in respect of urban immoveable property shall vest,—

- firstly*, in the co-sharers in such property, if any;
- secondly*, where the sale is of the site of the building or other structure, in the owners of such building or structure;
- thirdly*, where the sale is of a property having a staircase common to other properties, in the owners of such properties;
- fourthly*, where the sale is of property having a common entrance from the street with other properties, in the owners of such properties;
- fifthly*, where the sale is of a servient property, in the owners of the dominant property, and *vice versa*;

Person in whom right of pre-emption vests in urban immoveable property.

sixthly, in the persons who own immoveable property contiguous to the property sold.

17. Where several pre-emptors are found by the Court to be equally entitled to the right of pre-emption, the said right shall be exercised—

- Exercise of right of pre-emption where several persons equally entitled.*
- (a) if they claim as co-sharers, in proportion among themselves to the shares they already hold in the land or property;
 - (b) if they claim as heirs, whether co-sharers or not, in proportion among themselves to the shares in which but for such sale they would inherit the land or property in the event of the vendor's decease without other heirs;
 - (c) if they claim as owners of the estate or recognised subdivision thereof, in proportion among themselves to the shares which they would take if the land or property were common land in the estate or the subdivision, as the case may be;
 - (d) if they claim as occupancy tenants, in proportion among themselves to the areas respectively held by them in occupancy right;
 - (e) in any other case, by such pre-emptors in equal shares.

18. In the case of a foreclosure of the right to redeem village immoveable property, the provisions of sections 15 and 17 and in the case of a foreclosure of the right to redeem urban immoveable property, the provisions of sections 16 and 17 shall be construed by the Court with such alterations, not affecting the substance, as may be necessary or proper to adapt them to the matter before the Court.

Provisions of sections 15 and 17 applicable to foreclosures mutatis mutandis.

CHAPTER IV.

PROCEDURE.

19. When any person proposes to sell any agricultural land or village immoveable property or urban immoveable property or to foreclose the right to redeem any village immoveable property or urban immoveable property, in respect of which any persons have a right of pre-emption, he may give notice to all such persons of the price at which he is willing to sell such land or property or of the amount due in respect of the mortgage, as the case may be.

Notice to pre-emptors.

Such notice shall be given through any Court within the local limits of whose jurisdiction such land or property or any part thereof is situate, and shall be deemed sufficiently given if it be struck up on the chaupal or other public place of the village, town or place in which the land or property is situate.

20. The right of pre-emption of any person shall be extinguished unless such person shall, within the period of three months from the date on which the notice under section 19 is duly given or within such further period, not exceeding one year from such date, as the Court may allow, present to the Court a notice for service on

Notice by pre-emptor to vendor.

the vendor or mortgagee of his intention to enforce his right of pre-emption. Such notice shall state whether the pre-emptor accepts the price or amount due on the footing of the mortgage as correct or not, and if not, what sum he is willing to pay.

When the Court is satisfied that the said notice has been duly served on the vendor or mortgagee, the proceedings shall be filed.

Suit for pre-emption.

21. Any person entitled to a right of pre-emption may, when the sale or foreclosure has been completed, bring a suit to enforce that right.

Plaintiff may be called on to make deposit or to file security.

22. (1) In every suit for pre-emption the Court shall at, or at any time before, the settlement of issues require the plaintiff to deposit in Court such sum as does not, in the opinion of the Court, exceed one-fifth of the probable value of the land or property, or require the plaintiff to give security to the satisfaction of the Court for the payment, if required, of a sum not exceeding such probable value within such time as the Court may fix in such order.

(2) In any appeal the Appellate Court may at any time exercise the powers conferred on a Court under sub-section (1).

(3) Every sum deposited or secured under sub-section (1) or (2) shall be available for the discharge of costs.

(4) If the plaintiff fails within the time fixed by the Court or within such further time as the Court may allow to make the deposit or furnish the security mentioned in sub-section (1) or (2), his plaint shall be rejected or his appeal dismissed as the case may be.

(5) (a) If any sum so deposited is withdrawn by the plaintiff, the suit or appeal shall be dismissed.

(b) If any security so furnished for any cause becomes void or insufficient, the Court shall order the plaintiff to furnish fresh security or to increase the security, as the case may be, within a time to be fixed by the Court, and if the plaintiff fails to comply with such order, the suit or appeal shall be dismissed.

(6) The estimate of the probable value made for the purpose of sub-section (1) shall not affect any decision subsequently come to as to what is the market value of the land or property.

Special conditions relating to sales of agricultural land.

23. No decree shall be granted in a suit or pre-emption in respect of the sale of agricultural land until the plaintiff has satisfied the Court—

(a) that the sale in respect of which pre-emption is claimed is not in contravention of the Punjab Alienation of Land Act, 1900; and

(b) that he is not debarred by the provisions of section 14 of this Act from exercising the right of pre-emption.

XIII of 1900

Procedure on determination of the said issues.

24. In a suit for pre-emption in respect of a sale of agricultural land, if the Court finds that the sale is in contravention of the Punjab Alienation of Land Act, 1900, the Court shall dismiss the suit.

25. (1) If in the case of a sale the parties are not agreed as to the price at which the pre-emptor shall exercise his right of pre-emption, the Court shall determine whether the price at which the sale purports to have taken place has been fixed in good faith or paid, and if it finds that the price was not so fixed or paid, it shall fix as the price for the purposes of the suit the market value of the land or property.

Fixing of price for purposes of suit in case of sales.

(2) If the Court finds that the price was fixed in good faith or paid, it shall fix such price as the price for the purposes of the suit :

Provided that when the price at which the sale purports to have taken place represents entirely or mainly a debt greatly exceeding in amount the market value of the property the Court shall fix the market value as the price of the land or property for the purposes of the suit, and may put the vendee to his option either to accept such value as the full equivalent of the consideration for the original sale or to have the said sale cancelled, and the vendor and vendee restored to their original position.

26. If in case of a foreclosure the parties are not agreed as to the amount at which the pre-emptor shall exercise his right of pre-emption, the Court shall determine whether the amount claimed by the mortgagee is due under the terms of the mortgage, and whether it is claimed in good faith. If it finds that the amount is so due and is claimed in good faith, it shall fix such amount as the price for the purposes of the suit; but if it finds that the amount is not so due, or, though due, is not claimed in good faith, it shall fix as the price for the purposes of the suit the market value of the property.

Fixing of price for purposes of suit in cases of foreclosure.

27. For the purpose of determining the market value, the Court may consider the following among other matters as evidence of such value:—

“Market value” how to be determined.

- (a) the price or value actually received or to be received by the vendor from the vendee or the amount really due on the footing of the mortgage, as the case may be
- (b) the amount of interest included in such price, value, or amount;
- (c) the estimated amount of the average annual net assets of the land or property;
- (d) the land-revenue assessed upon the land or property;
- (e) the value of similar land or property in the neighbourhood;
- (f) the value of the land or property as shown by previous sales or mortgages.

28. When more suits than one arising out of the same sale or foreclosure are pending, the plaintiff in each suit shall be joined as defendant in each of the other suits, and in deciding the suits the Court shall in each decree state the order in which each claimant is entitled to exercise his right.

Concurrent hearing of suits.

Punjab Act,
II of 1928.

28-A. (1) If in any suit for pre-emption any person bases a claim or a plea on a right of pre-emption derived from the ownership of agricultural land or other immoveable property, and the

title to such land or property is liable to be defeated by the enforcement of a right of pre-emption with respect to it, the court shall not decide the claim or plea until the period of limitation for the enforcement of such right of pre-emption has expired and the suits for pre-emption (if any), instituted with respect to the land or property during the period have been finally decided.

(2) If the ownership of agricultural land or other immoveable property is lost by the enforcement of a right of pre-emption, the court shall disallow the claim or plea based upon the right of pre-emption derived therefrom.

Copy of
decree to be
sent to
Deputy Com-
missioner :
Application
for revision.

29. (1) The Court shall send to the Deputy Commissioner a copy of every original decree granting pre-emption other than a decree granting pre-emption in respect of a building or site of a building in a town or sub-division of a town, and the Deputy Commissioner may, within two months from the date of the receipt of such copy, apply to the Court to which the appeal in the pre-emption suit would lie, or if no appeal lies, to the Divisional Court, for revision of the decree on the ground that the decision of the Court of first instance is contrary to the provisions of the Punjab Alienation of Land Act, 1900.

XIII of 1900.

(2) No stamp shall be required upon such application, and the provisions of the Code of Civil Procedure as regards appeals shall apply as far as may be to the procedure of the Appellate Court on receipt of such application.

V of 1908.

(3) No appearance by or on behalf of the Deputy Commissioner shall be deemed necessary for the disposal of the application.

CHAPTER V.

LIMITATION.

Limitation.

30. In any case not provided for by article 10 of the Second Schedule of the Indian Limitation Act, 1908, the period of limitation in a suit to enforce a right of pre-emption under the provisions of this Act shall, notwithstanding anything in article 120 of the said schedule, be one year—

IX of 1908.

- (1) in the case of a sale of agricultural land or of village immoveable property, from the date of the attestation (if any) of the sale by a Revenue-officer having jurisdiction in the register of mutations maintained under the Punjab Land Revenue Act, 1887, or from the date on which the vendee takes under the sale physical possession of any part of such land or property, whichever date shall be the earlier;
- (2) in the case of a foreclosure of the right to redeem village immoveable property or urban immoveable property, from the date on which the title of the mortgagee to the property becomes absolute;
- (3) in the case of a sale of urban immoveable property, from the date on which the vendee takes under the sale physical possession of any part of the property.

XVII of
1887.

PUNJAB DESCENT OF JAGIRS ACT, 1900.

CONTENTS.

SECTIONS.

1. Short title, local extent and commencement.
2. New section substituted for section 8 of Act, IV of 1872.

PUNJAB DESCENT OF JAGIRS ACT, IV OF 1900.

PASSED BY THE LIEUTENANT-GOVERNOR OF THE PUNJAB IN COUNCIL.

(Received the assent of His Honour the Lieutenant-Governor on the 13th October 1900, and that of His Excellency the Viceroy and Governor-General on the 8th December, 1900; the Governor-General's assent was first published in the " Punjab Government Gazette " of the 27th December 1900.)

IV of 1872. **AN ACT TO AMEND SECTION 8 OF THE PUNJAB LAWS ACT, 1872, IN RESPECT OF THE DESCENT OF JAGIRS.**

IV of 1872. **WHEREAS** it is expedient to amend section 8 of the Punjab Laws Act, 1872, in respect of the descent of Jagirs;

It is hereby enacted as follows:—

1. (1) This Act may be called the Punjab Descent of Jagirs Act, 1900; Short title, local extent and commencement.

(2) It extends to the Punjab; and

(3) It shall come into force at once.

IV of 1872. 2. The following section shall be substituted for section 8 of the Punjab Laws Act, 1872, namely:— New section substituted for section 8 of Act IV of 1872.

3. (1) Where the Government has heretofore declared or at any time hereafter declares that any rule of descent in respect of succession to any assignment of land-revenue shall prevail in the family of assignees, such rule of descent shall be deemed to prevail, and to have prevailed from the time when the declaration was made, anything in any law or contract to the contrary notwithstanding; Rule of descent in family of assignee of land-revenue.

Provided that no such declaration shall hereafter be made unless and until—

(a) the Government is satisfied that the rule of descent to be so declared actually prevails in the family and has been, continuously and without breach, observed in all successions (if any) to the assignment since it was made, or

(b) the assignee or his successor in interest for the time being has, by written instrument duly executed by him, either before or after the passing of this Act, signified, on behalf of himself and his family,

acceptance of the rule of descent to be so declared and either no succession has taken place since such acceptance, or else in all successions which have taken place since such acceptance the assignment has in fact not devolved otherwise than it would have devolved had the said rule of descent been in force.

(2) Any declaration made under sub-section (1) may be amended, varied or rescinded by the Government, but always subject to the proviso thereto.

(3) Where the rule of descent declared under this section to prevail involves the devolution of the assignment of land-revenue to a single person as impartible property, the assignment shall not be liable to seizure, attachment or sequestration by process of any Court at the instance of a creditor for any demand against the assignee or his successor for the time being in interest, or in satisfaction of any decree or order.

Power to annex certain conditions to assignments when the rule of descent is declared.

8-A. When the Government makes any declaration under section 8 it may by notification in the local Government Gazette direct that the rule of descent thereby declared to prevail shall be subject to the following conditions or either of them, namely:—

- (a) That each successor to the assignment shall be approved and accepted as such by Government.
- (b) That any successor to the assignment shall, if the Government so require, make such provision out of the assignment as the Government may consider suitable for the maintenance of the widow or widows (if any) and other members of the family (if any) of the last or any previous holder of the assignment:

Provided that—

- (1) the Government shall not refuse to approve and accept as a successor to the assignment any person who by the rule of descent declared under section 8 to prevail is next in order of succession unless that person is in the opinion of Government unfit to succeed to the assignment; and
- (2) if the Government should exercise its authority under clause (a) of this section and refuse to accept as the successor the person indicated by the rule of descent as next in order of succession, then the next person entitled to succeed after the person so rejected, who is approved and accepted by Government, shall succeed.

8-B. When the Government has issued a notification under the authority of section 8 or of section 8-A of this Act, it shall have full power and authority to do all acts and things necessary to enforce the rule of descent declared by such notification to prevail and all or any of the conditions attached thereto.

8-C. Notwithstanding anything to the contrary which may appear in the conditions on which any assignment has been made, the Government is hereby empowered to declare that the rules, conditions and powers enacted by sections 8, 8-A and 8-B of this Act may be made applicable after notification in the local Government Gazette to such assignments.

NOTE.—Government of India, Finance Department, notification No. 3616-Exc., dated 16th July 1909, remits the stamp duty chargeable on an instrument of the kind referred to in section 8, sub-section (1), clause (b), of the Punjab Laws Act, 1872 (IV of 1872), as amended by section 2 of the Punjab Descent of Jagirs Act, 1900 (Punjab Act IV of 1900).

THE BENGAL ALLUVION AND DILUVION REGULATION, 1825.

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5. Encroachment on beds of navigable rivers and other obstructions.

REGULATION XI OF 1825.

Dated 26th May, 1825.

As amended by—

PUNJAB ACT I, OF 1899.

ACT I OF 1903.

A REGULATION FOR DECLARING THE RULES TO BE OBSERVED IN DETERMINING CLAIMS TO LANDS GAINED BY ALLUVION, OR BY DERELICTION OF A RIVER OR THE SEA.

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 William, 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 and 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. Preamble.

The lands gained from the rivers or sea by the means above-mentioned 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 sometimes found it difficult to determine the rights of litigant parties claiming chars or other lands gained in the manner above described.

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 reports furnished by the law-officers in consequence, 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 as 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.

* The whole of the Reg. XI of 1825 was declared to be in force in the Punjab by the Punjab Laws Act, 1872 (IV of 1872), s. 3 and Sch. I.

Short title. "The Bengal Alluvion and Diluvion Regulation, 1825," see the Repealing and Amending Act, 1897 (V of 1897).

Claims and disputes as to alluvial lands to be decided by usage when clearly recognized and established.

2. Whenever any clear and definite usage of shikast paiwast respecting the disjunction 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,¹ [unless and until a boundary is fixed under the provisions of section 101-A of the Punjab Land Revenue Act, 1887, as amended by the Punjab Riverain 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 1887,
I of 1899.

Where no usage established, claims how decided.

3. Where² [no boundary has been fixed 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 section, the general rules declared in the following section shall be applied to the determination of all claims and disputes relative to lands gained by alluvion or dereliction either of a river or the sea.

XVII of 1887,
I of 1899.

Land gained by gradual accession from recess of river or sea.

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 Government by a zamindar or other superior landholder, or as a subordinate tenure, by any description of under-tenant whatever:

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 Government 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 estates.

Second.—The above rule shall not be considered applicable to cases in which a river, by a sudden change of its course, may break through and intersect an estate, without any gradual encroachment, 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.

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

¹ & ² These words were inserted by the Punjab Riverain Boundaries Act, 1899 (I of 1899).

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 Government.

Chars or islands thrown up in navigable river.

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.

Fourth.—In small and shallow rivers, the beds of which, with the jalkar right of fishery, may have been heretofore recognized as the property of individuals, any sand-bank or char 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.

Sand-banks or chars thrown up in small shallow rivers.

Fifth.—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.

Disputes relative to land gained by alluvion or by dereliction not provided for by Regulation.

5. Nothing in this Regulation shall be construed to justify any encroachments by individuals on the beds or channels of navigable rivers or to prevent Zila † * * * Magistrates, or any other officers of Government, 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 bank of such rivers, or otherwise.

Encroachments on beds of navigable rivers and other obstructions.

THE PUNJAB RIVERAIN BOUNDARIES ACT, 1899.

[Incorporated in sections 101-A to F and in section 158, XVII of the Punjab Land Revenue Act, 1887, and in sections 2 and 3 of Bengal Regulation No. XI of 1825.]

† The words "and city" were repealed by the repealing and amending Act, 1903 (I of 1903).

THE LAND ACQUISITION ACT, 1894.

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LAND ACQUISITION ACT No. I OF 1894.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.
(Received the assent of the Governor-General on the 2nd February, 1894.)

Amended by—

ACTS IV AND X OF 1914,
ACT XVII OF 1919,
ACT XXXVIII OF 1920,
ACT XIX OF 1921,
ACT XXXVIII OF 1923 AND
ACT XVI OF 1933.

AN ACT TO AMEND THE LAW FOR THE ACQUISITION OF LAND FOR PUBLIC PURPOSES AND FOR COMPANIES.

WHEREAS it is expedient to amend the law for the acquisition of land needed for public purposes and for Companies and for determining the amount of compensation to be made on account of such acquisition; It is hereby enacted, as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be called the Land Acquisition Act, 1894; Short title, extent and commencement.
- (2) It extends to the whole of British India; and
- (3) It shall come into force on the first day of March, 1894.
2. (1) (*Repealed by Act X of 1914.*)
- (2) All proceedings commenced, officers appointed or authorized, agreements published and rules made under the *Land Acquisition Act, 1870*, shall, as far as may be, be deemed to have been respectively commenced, appointed or authorized, published and made under this Act. Proceedings under Act of 1870.
- (3) Any enactment or document referring to the *Land Acquisition Act, 1870*, or to any enactment thereby repealed shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof. Definitions.
3. In this Act, unless there is something repugnant in the subject or context,—
 - (a) the expression "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;
 - (b) the expression "person interested" includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act;

X of 1914.

X of 1870.

X of 1914.

and a person shall be deemed to be interested in land if he is interested in an easement affecting the land :

- (c) the expression "Collector" means the Collector of a district, and includes a Deputy Commissioner and any officer specially appointed by the Local Government to perform the functions of a Collector under this Act :
- (d) the expression "Court" means a principal Civil Court of original jurisdiction, unless the Local Government has appointed (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform the functions of the Court under this Act :
- (e) the expression "Company" means a Company registered under the Indian Companies Act, 1882, or under the (English) Companies Act, 1862 to 1890, or incorporated by an Act of Parliament or of the Governor-General in Council, or by Royal Charter or Letters Patent; and includes a society registered under the Societies Registration Act, 1860, and a registered society within the meaning of the Co-operative Societies Act, 1912. VI of 1882.
XVII of 1919.
- (f) the expression "public purpose" includes the provision of village-sites in districts in which the Local Government shall have declared by notification in the official Gazette that it is customary for the Government to make such provision : and
- (g) the following persons shall be deemed persons "entitled to act" as and to the extent hereinafter provided (that is to say)—
- trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted free from disability :
- a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and, whether of full age or not, to the same extent as if she were unmarried and of full age ; and
- the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted :
- Provided that—
- (i) no person shall be deemed "entitled to act" whose interest in the subject-matter shall be shown to the satisfaction of the Collector or Court to be adverse to

the interest of the person interested for whom he would otherwise be entitled to act;

(ii) in every such case the person interested may appear by a next friend, or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof;

(xiv of 1882.

(iii) the provisions of Chapter XXXI of the Code of Civil Procedure* shall, *mutatis mutandis*, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act; and

(iv) no person "entitled to act" shall be competent to receive the compensation-money payable to the person for whom he is entitled to act, unless he would have been competent to alienate the land and receive and give a good discharge for the purchase-money on a voluntary sale.

PART II.

ACQUISITION.

Preliminary Investigation.

XXXVIII of
1923.

†4. (1) Whenever it appears to the Local Government that land in any locality *is needed or is likely to be needed for any public purpose*, a notification to that effect shall be published in the official Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality. Publication of preliminary notification and powers of officers thereupon.

(2) Thereupon it shall be lawful for any officer, either generally or specially authorized by such Government in this behalf, and for his servants and workmen,—

to enter upon and survey and take levels of any land in such locality;

to dig or bore into the sub-soil;

to do all other acts necessary to ascertain whether the land is adapted for such purpose;

to set out the boundaries of the land proposed to be taken and the intended line of work (if any) proposed to be made thereon;

to mark such levels, boundaries and line by placing marks and cutting trenches; and,

where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle:

* See now Act V of 1908.

† As to amendments with which this section should be read when land is required for the purposes of a Company, see s. 38 (2) *infra*.

Provided that no person shall enter into any building or upon 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 seven days' notice in writing of his intention to do so.

Payment for
damage.

5. The officer so authorized shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector or other chief Revenue-officer of the district, and such decision shall be final.

Objections.

Hearing of
objections.

5-A. (1) Any person interested in any land which has been notified under section 4, sub-section (1), as being needed or likely to be needed for a public purpose or for a Company may, within thirty days after the issue of the notification, object to the acquisition of the land or of any land in the locality, as the case may be.

(2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard either in person or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, submit the case for the decision of the Local Government, together with the record of the proceedings held by him and a report containing his recommendations on the objections. The decision of the Local Government on the objections shall be final.

(3) For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act.

Declaration of intended acquisition.

Declaration
that land is
required for
a public pur-
pose.

6. (1) Subject to the provisions of Part VII of this Act, when the Local Government is satisfied, after considering the report, if any, made under section 5-A, sub-section (2), that any particular land is needed for a public purpose, or for a Company, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorized to certify its orders:

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a Company, or wholly or partly out of public revenues or some fund controlled or managed by a local authority.

(2) The declaration shall be published in the official Gazette, and shall state the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a Company, as the case may be; and, after making such declaration, the Local Government may acquire the land in manner hereinafter appearing.

7. Whenever any land shall have been so declared to be needed for a public purpose or for a Company, the Local Government, or some officer authorized by the Local Government in this behalf, shall direct the Collector to take order for the acquisition of the land.

After declaration Collector to take order for acquisition.

8. The Collector shall thereupon cause the land (unless it has been already marked out under section (4)) to be marked out. He shall also cause it to be measured, and (if no plan has been made thereof) a plan to be made of the same.

Land to be marked out, measured and planned.

9. (1) The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensation for all interests in such land may be made to him.

Notice to persons interested.

(2) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, and their objections (if any) to the measurements made under section 8. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

(3) The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside or have agents authorized to receive service on their behalf, within the revenue-district in which the land is situate.

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in a letter addressed to him at his last known residence, address or place of business and registered under Part III of the Indian Post Office Act, 1866.*

10. (1) The Collector may also require any such person to make or deliver to him, at a time and place mentioned (such time not being earlier than fifteen days after the date of requisition), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant

Power to require and enforce the making of statements as to names and interests.

* See now the Indian Post Office Act, 1898 (VI of 1898).

or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement.

(2) Every person required to make or deliver a statement under this section or section 9 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

X 1860.

Enquiry into Measurements, Value and Claims, and Award by the Collector.

Enquiry and award by Collector.

11. (1) On the days so fixed, or any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given under section 9 to the measurements made under section 8, and into the value of the land at the date of the publication of the notification under section 4, sub-section (1), and into the respective interests of the persons claiming the compensation, and shall make an award under his hand of—

LXXXVII of 1923.

- (i) the true area of the land;
- (ii) the compensation which in his opinion should be allowed for the land; and
- (iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

Award of Collector when to be final.

12. (1) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested.

(2) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

Adjournment of enquiry.

13. The Collector may, for any cause he thinks fit, from time to time adjourn the enquiry to a day to be fixed by him.

Power to summon and enforce attendance of witnesses and production of documents.

14. For the purpose of enquiries under this Act the Collector shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents by the same means, and (so far as may be) in the same manner, as is provided in the case of a Civil Court under the Code of Civil Procedure.*

XIV of 1882.

Matters to be considered and neglected.

15. In determining the amount of compensation, the Collector shall be guided by the provisions contained in sections 23 and 24.

* See now Act V of 1908.

Taking possession.

16. When the Collector has made an award under section 11, he may take possession of the land, which shall thereupon vest absolutely in the Government, free from all encumbrances. Power to take possession.

17. (1) In cases of urgency, whenever the Local Government so directs, the Collector, though no such award has been made, may, on the expiration of fifteen days from the publication of the notice mentioned in section 9, sub-section (1), take possession of any waste or arable land needed for public purposes or for a Company. Such land shall thereupon vest absolutely in the Government, free from all encumbrances. Special powers in cases of urgency.

(2) Whenever, owing to any sudden change in the channel of any navigable river or other unforeseen emergency, it becomes necessary for any Railway Administration to acquire the immediate possession of any land for the maintenance of their traffic or for the purpose of making thereon a river-side or ghât station, or of providing convenient connection with or access to any such station, the Collector may, immediately after the publication of the notice mentioned in sub-section (1) and with the previous sanction of the Local Government, enter upon and take possession of such land, which shall thereupon vest absolutely in the Government free from all encumbrances:

Provided that the Collector shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours' notice of his intention so to do, or such longer notice as may be reasonably sufficient to enable such occupier to remove his moveable property from such building without unnecessary inconvenience.

(3) In every case under either of the preceding sub-sections the Collector shall at the time of taking possession offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them caused by such sudden dispossession and not excepted in section 24; and, in case such offer is not accepted, the value of such crops and trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions herein contained.

XXXVIII of
1923.

(4) In the case of any land to which, in the opinion of the Local Government, the provisions of sub-section (1) or sub-section (2) are applicable, the Local Government may direct that the provisions of section 5-A shall not apply, and, if it does so direct, a declaration may be made under section 6 in respect of the land at any time after the publication of the notification under section 4, sub-section (1).

PART III.

REFERENCE TO COURT AND PROCEDURE THEREON.

18. (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Reference to Court.

Court, whether his objection be to the measurement of the land, the amount of compensation, the persons to whom it is payable, or the apportionment of the compensation, among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken :

Provided that every such application shall be made,—

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award.

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.

Collector's
statement
to the Court.

19. (1) In making the reference, the Collector shall state, for the information of the Court, in writing under his hand,—

(a) the situation and extent of the land, with particulars of any trees, buildings or standing crops thereon;

(b) the names of the persons whom he has reason to think interested in such land;

(c) the amount awarded for damages and paid or tendered under sections 5 and 17, or either of them, and the amount of compensation awarded under section 11; and

(d) if the objection be to the amount of compensation, the grounds on which the amount of compensation was determined.

(2) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by, the parties interested respectively.

Service of
notices.

20. The Court shall thereupon cause a notice specifying the day on which the Court will proceed to determine the objection, and directing their appearance before the Court on that day, to be served on the following persons, namely:—

(a) the applicant;

(b) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded; and

(c) if the objection is in regard to the area of the land or to the amount of the compensation, the Collector.

Restriction
on scope of
proceedings.

21. The scope of the inquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection.

22. Every such proceeding shall take place in open Court, and all persons entitled to practise in any Civil Court in the province shall be entitled to appear, plead and act (as the case may be) in such proceeding. Proceedings to be in open Court.

23. (1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration— Matters to be considered in determining compensation.

XXXVIII
of 1923.

first, the market-value of the land at the date of the publication of the notification under section 4, subsection (1);

secondly, the damage sustained by the person interested, by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof;

thirdly, the damage (if any) sustained by the person interested at the time of the Collector's taking possession of the land, by reason of severing such land from his other land;

fourthly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, moveable or immovable, in any other manner, or his earnings;

fifthly, if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change; and

sixthly, the damage (if any) *bonâ fide* resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the Collector's taking possession of the land.

(2) In addition to the market value of the land as above provided, the Court shall in every case award a sum of fifteen per centum on such market-value, in consideration of the compulsory nature of the acquisition.

24. But the Court shall not take into consideration—

first, the degree of urgency which has led to the acquisition; Matters to be neglected in determining compensation.

secondly, any disinclination of the person interested to part with the land acquired;

thirdly, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit;

fourthly, any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under section 6, by or in consequence of the use to which it will be put;

fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

sixthly, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put; or,

seventhly, any outlay or improvements on, or disposal of, the land acquired, commenced, made or effected without the sanction of the Collector after the date of the publication of the *notification under section 4, sub-section (1)*.

XXXVIII
of 1923.

Rules as to
amount of
compensa-
tion.

25. (1) When the applicant has made a claim to compensation, pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount so claimed or be less than the amount awarded by the Collector under section 11.

(2) When the applicant has refused to make such claim or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Collector.

(3) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court shall not be less than, and may exceed, the amount awarded by the Collector.

Form of
awards.

26. (1) Every award under this Part shall be in writing signed by the Judge, and shall specify the amount awarded under clause *first* of sub-section (1) of section 23, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

(2) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of section 2, clause (2), and section 2, clause (9), respectively, of the Code of Civil Procedure, 1908. XIX of 1921.

Costs.

27. (1) Every such award shall also state the amount of costs incurred in the proceedings under this Part, and by what persons and in what proportions they are to be paid.

(2) When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector, unless the Court shall be of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs.

28. If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of six per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court.

Collector may be directed to pay interest on excess compensation.

PART IV.

APPORTIONMENT OF COMPENSATION.

29. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Particulars of apportionment to be specified.

30. When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court.

Dispute as to apportionment.

PART V.

PAYMENT.

31. (1) On making an award under section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub-section.

Payment of compensation or deposit of same in Court.

(2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted:

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18:

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(3) Notwithstanding anything in this section the Collector may, with the sanction of the Local Government, instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either

by the grant of other lands in exchange, the remission of land-revenue on other lands held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

(4) Nothing in the last foregoing sub-section shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and competent to contract in respect thereof.

Investment
of money
deposited in
respect of
lands belong-
ing to persons
incompetent
to alienate.

32. (1) If any money shall be deposited in Court under sub-section (2) of the last preceding section and it appears that the land in respect whereof the same was awarded belonged to any person who had no power to alienate the same, the Court shall—

- (a) order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited was held, or
- (b) if such purchase cannot be effected forthwith, then in such Government or other approved securities as the Court shall think fit;

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same be applied—

- (i) in the purchase of such other lands as aforesaid; or
- (ii) in payment to any person or persons becoming absolutely entitled thereto.

(2) In all cases of money deposited to which this section applies the Court shall order the costs of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the Collector, namely:—

- (a) the costs of such investments as aforesaid;
- (b) the costs of the orders for the payment of the interest or other proceeds of the securities upon which such moneys are for the time being invested, and for the payment out of Court of the principal of such moneys, and of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants.

Investment
of money
deposited in
other cases.

33. When any money shall have been deposited in Court under this Act for any cause other than that mentioned in the last preceding section, the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as it may consider will give the parties interested therein the same benefit therefrom as they might have had from

the land in respect whereof such money shall have been deposited or as near thereto as may be.

34. When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of six per centum per annum from the time of so taking possession until it shall have been so paid or deposited.

Payment of interest.

PART VI.

TEMPORARY OCCUPATION OF LAND.

35. (1) Subject to the provisions of Part VII of this Act whenever it appears to the Local Government that the temporary occupation and use of any waste or arable land are needed for any public purpose, or for a Company, the Local Government may direct the Collector to procure the occupation and use of the same for such term as it shall think fit, not exceeding three years from the commencement of such occupation.

Temporary occupation of waste or arable land. Procedure when difference as to compensation exists.

(2) The Collector shall thereupon give notice in writing to the persons interested in such land for the purpose for which the same is needed, and shall, for the occupation and use thereof for such term as aforesaid, and for the materials (if any) to be taken therefrom, pay to them such compensation, either in a gross sum of money, or by monthly or other periodical payments, as shall be agreed upon in writing between him and such persons respectively.

(3) In case the Collector and the persons interested differ as to the sufficiency of the compensation or apportionment thereof, the Collector shall refer such difference to the decision of the Court.

36. (1) On payment of such compensation, or on executing such agreement or on making a reference under section 35, the Collector may enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice.

Power to enter and take possession, and compensation on restoration.

(2) On the expiration of the term, the Collector shall make or tender to the persons interested compensation for the damage (if any) done to the land and not provided for by the agreement, and shall restore the land to the persons interested therein:

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require, the Local Government shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose or for a Company.

37. In case the Collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Collector shall refer such difference to the decision of the Court.

Difference as to condition of land.

PART VII.

ACQUISITION OF LAND FOR COMPANIES.

Company may be authorized to enter and survey.

38. (1) The Local Government may authorize any officer of any Company desiring to acquire land for its purposes to exercise the powers conferred by section 4.

(2) In every such case section 4 shall be construed as if for the words "for such purpose" the words "for the purposes of the Company" were substituted; and section 5 shall be construed as if after the words "the officer" the words "of the Company" were inserted.

Industrial concern to be deemed Company for certain purposes.

38-A. An industrial concern, ordinarily employing not less than one hundred workmen owned by an individual or by an association of individuals and not being a Company, desiring to acquire land for the erection of dwelling houses for workmen employed by the concern or for the provision of amenities directly connected therewith shall, so far as concerns the acquisition of such land, be deemed to be a Company for the purposes of this part, and the references to Company in sections 5-A, 6, 7, 17 and 50 shall be interpreted as references also to such concern.

XVI of 1933.

Previous consent of Local Government and execution of agreement necessary.

39. The provisions of sections 6 to 37 (both inclusive) shall not be put in force in order to acquire land for any Company, unless with the previous consent of the Local Government, nor unless the Company shall have executed the agreement hereinafter mentioned.

Previous enquiry.

40. (1) Such consent shall not be given unless the Local Government be satisfied *either on the report of the Collector under section 5-A, sub-section (2), or by an enquiry held as hereinafter provided,—*

XXXVIII of 1923.

(a) that the purpose of the acquisition is to obtain land for the erection of dwelling houses for workmen employed by the Company or for the provision of amenities directly connected therewith, or

XVI of 1933.

(b) that such acquisition is needed for the consideration of some work, and that such work* is likely to prove useful to the public.

(2) Such enquiry shall be held by such officer and at such time and place as the Local Government shall appoint.

(3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the Code of Civil Procedure† in the case of a Civil Court.

XIV of 1882.

*The term "work" shall be deemed to include electrical energy supplied or to be supplied, by means of the work to be constructed,—vide section 57, (1) of the Indian Electricity Act, 1910 (IX of 1910).

† See now Act V of 1908.

XXXVIII of
1923.

XVI of 1933.

41. If the Local Government is satisfied *after considering the report, if any, of the Collector under section 5-A, sub-section (2), or on the report of the officer making an inquiry under section 40* that purposes of the proposed acquisition is to obtain land for the erection of dwelling houses for workmen employed by the Company or for the provision of amenities directly connected therewith, or that the proposed acquisition is needed for the construction of a work, and that such work is likely to prove useful to the public, it shall require the Company to enter into an agreement with the Secretary of State for India in Council, providing to the satisfaction of the Local Government for the following matters, namely—

Agreement
with Secretary
of State
in Council.

XVI of 1933.

- (1) the payment to Government of the cost of the acquisition;
- (2) the transfer, on such payment, of the land to the Company;
- (3) the terms on which the land shall be held by the Company;
- (4) where the acquisition is for the purpose of erecting dwelling houses or the provision of amenities connected therewith, the time within which, the conditions on which and the manner in which the dwelling houses or amenities shall be erected or provided; and
- (5) where the acquisition is for the construction of any other work, the time within which and the conditions on which the work shall be executed and maintained, and the terms on which the public shall be entitled to use the work.*

42. Every such agreement shall, as soon as may be after its execution, be published in the *Gazette of India*, and also in the local official Gazette, and shall thereupon (so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it has formed part of this Act.

Publication
of agreement.

X of 1870.

43. The provisions of sections 39 to 42, both inclusive, shall not apply, and the corresponding sections of the Land Acquisition Act, 1870, shall be deemed never to have applied, to the acquisition of land for any Railway or other Company, for the purposes of which, under any agreement between such Company and the Secretary of State for India in Council, the Government is, or was, bound to provide land.

Sections 39
to 42 not to
apply where
Government
bound by
agreement
to provide
land for
Companies.

44. In the case of the acquisition of land for the purposes of a Railway Company, the existence of such an agreement as is mentioned in section 43 may be proved by the production of a printed copy thereof purporting to be printed by order of Government.

How agree-
ment
between
Railway
Company and
Secretary of
State may be
proved.

* The term "work" shall be deemed to include electrical energy supplied or to be supplied, by means of the work to be constructed.—*vide* section 57 (1) of the Electricity Act, 1910 (IX of 1910).

PART VIII.

MISCELLANEOUS.

Service of notices.

45. (1) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 4, by the officer therein mentioned, and, in the case of any other notice, by or by order of the Collector or the Judge.

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(3) When such person cannot be found, the service may be made on any adult male member of his family residing with him; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector or in the court-house, and also in some conspicuous part of the land to be acquired :

Provided that, if the Collector or Judge shall so direct, a notice may be sent by post, in a letter addressed to the person named therein at his last known residence, address or place of business, and registered under Part III of the Indian Post Office Act, 1866 * XIV of 1866. and service of it may be proved by the production of the addressee's receipt.

Penalty for obstructing acquisition of land.

46. Whoever wilfully obstructs any person in doing any of the acts authorized by section 4 or section 8, or wilfully fills up, destroys, damages or displaces any trench or mark made under section 4, shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month, or to fine not exceeding fifty rupees, or to both.

Magistrate to enforce surrender.

47. If the Collector is opposed or impeded in taking possession under this Act of any land, he shall, if a Magistrate, enforce the surrender of the land to himself, and, if not a Magistrate, he shall apply to a Magistrate or (within the towns of Calcutta, Madras and Bombay) to the Commissioner of Police, and such Magistrate or Commissioner (as the case may be) shall enforce the surrender of the land to the Collector.

Completion of acquisition not compulsory, but compensation to be awarded when not completed.

48. (1) Except in the case provided for in section 36, the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.

(2) Whenever the Government withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such

* See now the Indian Post Office Act, 1898 (VI of 1898).

amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.

(3) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section.

49. (1) The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desire that the whole of such house, manufactory or building shall be so acquired: Acquisition of part of house or building.

Provided that the owner may, at any time before the Collector has made his award under section 11, by notice in writing, withdraw or modify his expressed desire that the whole of such house, manufactory or building shall be so acquired:

Provided also that, if any question shall arise as to whether any land proposed to be taken under this Act does or does not form part of a house, manufactory or building within the meaning of this section, the Collector shall refer the determination of such question to the Court and shall not take possession of such land until after the question has been determined.

In deciding on such a reference the Court shall have regard to the question whether the land proposed to be taken is reasonably required for the full and unimpaired use of the house, manufactory or building.

(2) If, in the case of any claim under section 23. sub-section (1), *thirdly*, by a person interested, on account of the severing of the land to be acquired from his other land, the Local Government is of opinion that the claim is unreasonable or excessive, it may, at any time before the Collector has made his award, order the acquisition of the whole of the land of which the land first sought to be acquired forms a part.

(3) In the case last hereinbefore provided for, no fresh declaration or other proceedings under sections 6 to 10, both inclusive, shall be necessary; but the Collector shall without delay furnish a copy of the order of the Local Government to the person interested, and shall thereafter proceed to make his award under section 11.

50. (1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any Company, the charges of and incidental to such acquisition shall be defrayed from or by such fund or Company. Acquisition of land at cost of a local authority or Company.

(2) In any proceeding held before a Collector or Court in such cases the local authority or Company concerned may appear and adduce evidence for the purpose of determining the amount of compensation:

Provided that no such local authority or Company shall be entitled to demand a reference under section 18.

Exemption from stamp duty and fees.

51. No award or agreement made under this Act shall be chargeable with stamp-duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

Notice in case of suits or anything done in pursuance of Act.

52. No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after tender of sufficient amends.

Code of Civil Procedure to apply to proceedings before Court.

53 Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code* of Civil Procedure shall apply to all proceedings before the Court under this Act. XIV of 1832.

Appeals in proceedings before Court.

54. Subject to the provisions of the Code of Civil Procedure, 1908; applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, an appeal shall only lie in any proceedings under this Act to the High Court from the award, or from any part of the award, or of the Court and from any decree of the High Court passed on such appeal as aforesaid an appeal shall lie to His Majesty in Council, subject to the provisions contained in section 110 of the Code of Civil Procedure, 1908. and in Order XLV thereof." XIX of 1921.

Power to make rules.

55. (1) The Local Government shall have power to make rules consistent with this Act for the guidance of the officers in all matters connected with its enforcement, and may from time to time alter and add to the rules so made. IV of 1914. XXXVIII of 1920.

" Provided that where the provisions of this Act are put in force for the acquisition of land— XXXVIII of 1920.

(a) for the purpose of any railway, or

(b) for such other purposes, connected with the administration of a central subject as defined in section 45-A of the Government of India Act, as the Governor-General in Council may, by notification in the *Gazette of India* declare in this behalf,

the power to make, alter and add to rules conferred on the Local Government by this sub-section shall be exercised subject to the control of the Governor-General in Council."

(2) The power to make, alter and add to rules under sub-section (1) shall be subject to the condition of the rules being made, altered or added to after previous publication.

(3) All such rules, alterations and additions shall be published in the official Gazette, and shall thereupon have the force of law. IV of 1914.

* See now Act V of 1908.

THE LAND IMPROVEMENT LOANS ACT, 1883.
CONTENTS.

SECTION.

1. Short title, local extent and commencement.
2. Acts XXVI of 1871 and Act XXI of 1876 repealed.
3. " Collector " defined.
4. Purposes for which loans may be granted under this Act.
5. Mode of dealing with applications for loans.
6. Period for repayment of loans.
7. Recovery of loans.
8. Order granting loan conclusive on certain points.
9. Liability of joint borrowers as among themselves.
10. Power to make rules.
11. Exemption of improvements from assessment to land-revenue.
12. Certain powers of Local Government to be exercisable by Board of Revenue or Financial Commissioner.

ACT No. XIX OF 1883.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor-General on the
12th October 1883.)*

As amended by—

ACT XII OF 1891, ACT XVIII OF 1899, ACT VIII OF 1906,
ACT XVI OF 1908, ACT IV OF 1914, AND ACT X OF 1914.

AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO LOANS OF MONEY BY THE GOVERNMENT FOR AGRICULTURAL IMPROVEMENTS.

WHEREAS it is expedient to consolidate and amend the law relating to loans of money by the Government for agricultural improvements; It is hereby enacted as follows:—

1. (1) This Act may be called the Land Improvement Loans Short title. Act, 1883.

(2) It extends to the whole of British India, but shall not come Local extent into force in any part of British India until such date as the Local and and Com- Government may, by notification in the local official Gazette, menacement. appoint in this behalf.

(VIII of
1906.)

XXVI
1871.

2. (1) The Land Improvement Act, 1871, and Act XXI of Acts XXVI of 1876. *(An Act to amend the Land Improvement Act, 1871),* shall, 1871 and except as regards the recovery of advances made before this Act XXI of 1876 comes into force and costs incurred by the Government in respect repealed. of such advances, be repealed.

(2) When in any Act, Regulation or Notification passed or issued before this Act comes into force, reference is made to either of those Acts, the reference shall, so far as may be practicable, be read as applying to this Act or the corresponding part of this Act.

3. In this Act, "Collector" means the Collector of land- "Collector" revenue of a district, or the Deputy Commissioner, or any officer defined. empowered by the Local Government by name or by virtue of his office to discharge the functions of a Collector under this Act.

4. (1) Subject to such rules as may be made under section 10, Purposes loans may be granted under this Act by such officer as may, from for which time to time, be empowered in this behalf by the Local Government, loans may for the purpose of making any improvement, to any person having be granted a right to make that improvement, or with the consent of that under this Act, person, to any other person.

(2) "Improvement" means any work which adds to the letting value of land, and includes the following, namely:—

(a) the construction of wells, tanks and other works for the storage, supply or distribution of water for the

purposes of agriculture, or for the use of men and cattle employed in agriculture;

- (b) the preparation of land for irrigation;
- (c) the drainage, reclamation from rivers or other waters, or protection from floods or from erosion or other damage by water, of land used for agricultural purposes or waste-land which is culturable;
- (d) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes;
- (e) the renewal or reconstruction of any of the foregoing works, or alterations therein or additions thereto; and
- (f) such other works as the Local Government may, from (VIII of 1906) time to time, by notification in the local official Gazette, declare to be improvements for the purposes of this Act.

Mode of dealing with applications for loans.

5. (1) When an application for a loan is made under this Act, the officer to whom the application is made may, if it is, in his opinion, expedient that public notice be given of the application, publish a notice in such manner as the Local Government may, from time to time, direct calling upon all persons objecting to the loan to appear before him at a time and place fixed therein and submit their objections.

(2) The officer shall consider every objection submitted under sub-section (1), and make an order in writing either admitting or over-ruling it:

Provided that, when the question raised by an objection is, in the opinion of the officer, one of such a nature that it cannot be satisfactorily decided except by a Civil Court, he shall postpone his proceedings on the application until the question has been so decided.

Period for repayment of loans.

6. (1) Every loan granted under this Act shall be made repayable by instalments (in the form of an annuity or otherwise) within such period from the date of the actual advance of the loan, or, when the loan is advanced in instalments (from the date of the advance of the last instalment actually paid)* as may, from time to time, be fixed by the rules made under this Act. XVIII of 1899.)

(2) The period fixed as aforesaid shall not ordinarily exceed thirty-five years.

* These words were substituted for the words "from the date of the actual advance of the last instalment" by section 2 of the Land Improvement Loans (Amendment) Act, 1899 (XVIII of 1899), and are by that enactment to be deemed to have been substituted with effect from the commencement of Act XIX of 1883.

VIII of 1906.

(3) The Local Government in making the rules fixing the period shall, in considering whether the period should extend to thirty-five years, or whether it should extend beyond thirty-five years, have regard to the durability of the work for the purpose of which the loan is granted, and to the expediency of the cost of the work being paid by the generation of persons who will immediately benefit by the work.

7. (1) Subject to such rules as may be made under section 10, all interest (if any) chargeable (thereon) and costs (if any) incurred in making the same, when they become due, be recoverable by the Collector in all or any of the following modes, namely—

- (a) from the borrower—as if they were arrears of land-revenue due by him;
- (b) from his surety (if any)—as if they were arrears of land-revenue due by him;
- (c) out of the land for the benefit of which the loan has been granted—as if they were arrears of land-revenue due in respect of that land;
- (d) out of the property comprised in the collateral security (if any)—according to the procedure for the realization of land-revenue by the sale of immoveable property other than the land on which that revenue is due:

Provided that no proceeding in respect of any land under clause (c) shall affect any interest in that land which existed before the date of the order granting the loan, other than the interest of the borrower, and of mortgagees of, or persons, having charges on, that interest, and, where the loan is granted under section 4 with the consent of another person, the interest of that person, and of mortgagees of, or persons having charges on, that interest.

(2) When any sum due on account of any such loan, interest or costs is paid to the Collector by a surety or an owner of property comprised in any collateral security, or is recovered under subsection (1) by the Collector from a surety or out of any such property, the Collector shall, on the application of the surety or the owner of that property (as the case may be), recover that sum on his behalf from the borrower, or out of the land for the benefit of which the loan has been granted, in manner provided by subsection (1).

(3) It shall be in the discretion of a Collector acting under this section to determine the order in which he will resort to the various modes of recovery permitted by it.

Order granting loan conclusive on certain points.

8. A written order under the hand of an officer empowered to make loans under this Act granting a loan to, or with the consent of, a person mentioned therein, for the purpose of carrying out a work described therein, for the benefit of land specified therein, shall, for the purposes of this Act, be conclusive evidence—

- (a) that the work described is an improvement within the meaning of this Act;
- (b) that the person mentioned had at the date of the order a right to make such an improvement; and
- (c) that the improvement is one benefiting the land specified.

Liability of joint borrowers as among themselves.

9. When a loan is made under this Act to the members of a village community or to any other persons on such terms that all of them are jointly and severally bound to the Government for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount which as among themselves each is bound to contribute is entered upon the order granting the loan and is signed by each of them and by the officer making the order, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of those persons is bound to contribute.

Power to make rules.

10. The Local Government may, from time to time, by notification in the local official Gazette, make rules consistent with this Act to provide for the following matters, namely:—

- (a) the manner of making applications for loans;
- (b) the officers by whom loans may be granted;
- (c) the manner of conducting inquiries relative to applications for loans and the powers to be exercised by officers conducting those inquiries;
- (d) the nature of the security to be taken for the due application and repayment of the money, the rate of interest at which, and the conditions under which, loans may be granted, and the manner and time of granting loans;
- (e) the inspection of works for which loans have been granted;
- (f) the instalments by which, and the mode in which, loans, the interest to be charged on them and the costs incurred in the making thereof, shall be paid;
- (g) the manner of keeping and auditing the accounts of the expenditure of loans and of the payments made in respect of the same; and
- (h) all other matters pertaining to the working of the Act.

by noti- VIII of 1906.
IV of 1914.]

11. When land is improved with the aid of a loan granted under this Act, the increase in value derived from the improvement shall not be taken into account in revising the assessment of land-revenue on the land: Exemption of improvements from assessment to land revenue.

Provided as follows:—

- (1) where the improvement consists of the reclamation of waste-land, or of the irrigation of land assessed at unirrigated rates, the increase may be so taken into account after the expiration of such period as may be fixed by rules to be framed by the Local Government.
- (2) nothing in this section shall entitle any person to call in question any assessment of land-revenue otherwise than as it might have been called in question if this Act had not been passed.

VIII of 1906.

XVI of 1906,
IV of 1914.

12. The powers conferred on a Local Government by sections 4 (1), 5 (1) and 10 may, in a province for which there is a Board of Revenue or a Financial Commissioner, be exercised in the like manner and subject to the like conditions by such Board or Financial Commissioner, as the case may be: provided that rules made by a Board of Revenue or Financial Commissioner shall be subject to the control of the Local Government. Certain powers of Local Government to be exercisable by Board of Revenue or Financial Commissioner.

Notes.—1. Government of India, Finance and Commerce Department, notification No. 4650, dated 10th September 1889, clause (12), remits the fees chargeable on applications for loans under the Land Improvement Loans Act, XIX of 1883.

2. By Article 57 of Schedule I to the Indian Stamp Act, II of 1899. instruments executed by persons taking advances under the Land Improvement Loans Act, 1883, or by their sureties, as security for the repayment of such advances, are exempted from stamp duty.

3. Government of India, Finance Department, notification No. 3616-Exc., dated 16th July 1909, remits the stamp duty chargeable on an instrument executed for the purpose of securing the repayment of a loan made, or to be made, under the Land Improvement Loans Act, 1883 (XIX of 1883), including an instrument whereby a landlord binds himself to consent to the transfer, in the event of default in such repayment, of any land, or interest in land, on the security of which any such loan is made to his tenant.

THE AGRICULTURISTS' LOANS ACT, 1884.

CONTENTS.

SECTIONS.

1. Preamble, short title and commencement.
2. Local extent.
3. Repeal of Act X of 1879, and sections 4 and 5 of Act XV, of 1880.
4. Power for Local Government to make rules.
5. Recovery of loans.
6. Liability of joint borrowers as among themselves.

ACT No. XII OF 1884.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor-General on the
24th July 1884.)*

As amended by—

ACT VIII OF 1906, ACT IV OF 1914 AND ACT X OF 1914.

AN ACT TO AMEND AND PROVIDE FOR THE EXTENSION OF THE NORTHERN INDIA TAKKAVI ACT, 1879.

WHEREAS it is expedient to amend the Northern India Preamble.
Takkavi Act, 1879, and provide for its extension to any part
of British India; It is hereby enacted as follows:—

X of 1879.

1. (1) This Act may be called the 'Agriculturists' Loans Act, Short title.
1884; and

(2) It shall come into force on the first day of August, 1884. Commence-
ment.

2. (1) This section and section 3 extend to the whole of Local extent.
British India.

(2) The rest of this Act extends in the first instance only to the territories respectively administered by the Governor of Bombay in Council, the Lieutenant-Governors of the North-Western Provinces and the Punjab, and the Chief Commissioners of Oudh, the Central Provinces, Assam and Ajmer.

(3) But any other Local Government may, from time to time, by notification in the official Gazette, extend the rest of this Act to the whole or any part of the territories under its administration.

X of 1879.

XV of 1880,

3. (1) On and from the day on which this Act comes into force, the Northern India Takkavi Act, 1879, and sections 4 and 5 of the Bombay Revenue Jurisdiction Act, 1880, shall, except as regards the recovery of advances made before this Act comes into force and of the interest thereon, be repealed. Repeal of
Act X of 1879
and sections 4
and 5 of Act
XV of 1880.

(2) All rules made under those Acts shall be deemed to be made under this Act.

IV of 1914.

VIII of 1906.

4. (1) The Local Government or, in a province for which there is a Board of Revenue or Financial Commissioner, such Board or Financial Commissioner, subject to the control of the Local Government may, from time to time make rules as to loans to be made to owners and occupiers of arable land for the relief of distress, the purchase of seed or cattle or any other purpose not specified in the Land Improvement Loans Act, 1883, but connected with agricultural objects. Power for
Local
Government
to make rules.

XIX of 1883.

(2) All such rules shall be published in the local official Gazette.

Recovery of loans.

5. Every loan made in accordance with such rules, all interest (if any) chargeable thereon, and costs (if any) incurred in making or recovering the same, shall, when they become due, be recoverable from the person to whom the loan was made, or from any person who has become surety for the repayment thereof, as if they were arrears of land-revenue or costs incurred in recovering the same due by the person to whom the loan was made or by his surety.

Liability of joint borrowers as among themselves.

6. When a loan is made under this Act to the members of a village community or to any other persons on such terms that all of them are jointly and severally bound to the Government for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount which as among themselves each is bound to contribute is entered upon the order granting the loan and is signed, marked, or sealed by each of them or his agent duly authorized in this behalf and by the officer making the order, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of those persons is bound to contribute.

NOTES.—1. Government of India, Finance and Commerce Department, notification No. 4650, dated 10th September 1889, clause (12), remits the fees chargeable on applications for loans under the Agriculturists' Loans Act (XII of 1884).

2. By Article 57 of Schedule I to the Indian Stamp Act, II of 1899, instruments executed by persons taking advances under the Agriculturists' Loans Act, 1884, or by their sureties, as security for the repayment of such advances, are exempted from stamp duty.

3. Government of India, Finance Department, notification No. 3616-Exc., dated 16th July 1909, remits the stamp duty chargeable on—

(i) An instrument executed for the purpose of securing the repayment of a loan made, or to be made, under the Agriculturists' Loans Act, 1884 (XII of 1884), including an instrument whereby a landlord binds himself to consent to the transfer, in the event of default in such repayment, of any land, or interest in land, on the security of which any such loan is made to his tenant;

(ii) A receipt given by a person for advances exceeding Rs. 20 received by him from the Government under the Agriculturists' Loans Act, 1884 (XII of 1884).

THE CO-OPERATIVE SOCIETIES ACT, 1912.

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ACT No. II OF 1912.

(Received the assent of the Governor-General on the
1st March 1912.)

As amended by—

ACT XVII OF 1914, ACT XXXVIII OF 1920.

AN ACT TO AMEND THE LAW RELATING TO CO-OPERATIVE SOCIETIES.

WHEREAS it is expedient further to facilitate the formation of Co-operative Societies for the promotion of thrift and self-help among agriculturists, artisans and persons of limited means, and for that purpose to amend the law relating to Co-operative Societies; It is hereby enacted as follows:—

Preliminary.

1. (1) This Act may be called the Co-operative Societies Act, Short title and extent.
1912; and

(2) It extends to the whole of British India.

2. In this Act, unless there is anything repugnant in the Definitions.
subject or context,—

(a) “by-laws” means the registered by-laws for the time being in force, and includes a registered amendment of the by-laws:

(b) “committee” means the governing body of a registered society to whom the management of its affairs is entrusted:

(c) “member” includes a person joining in the application for the registration of a society and a person admitted to membership after registration in accordance with the by-laws and any rules:

(d) “officer” includes a chairman, secretary, treasurer, member of committee, or other person empowered under the rules or the by-laws to give directions in regard to the business of the society:

(e) “registered society” means a society registered or deemed to be registered under this Act:

(f) “Registrar” means a person appointed to perform the duties of a Registrar of Co-operative Societies under this Act: and

(g) “rules” means rules made under this Act.

Registration.

3. The Local Government may appoint a person to be Registrar of Co-operative Societies for the Province or any portion of it, and may appoint persons to assist such Registrar, and may, by general or special order, confer on any such persons all or any of the powers of a Registrar under this Act. The Registrar.

(Registration.)

Societies
which may
be registered.

4. Subject to the provisions hereinafter contained, a society which has as its object the promotion of the economic interests of its members in accordance with co-operative principles, or a society established with the object of facilitating the operations of such a society, may be registered under this Act with or without limited liability:

Provided that unless the Local Government by general or special order otherwise directs—

- (1) the liability of a society of which a member is a registered society shall be limited:
- (2) the liability of a society of which the object is the creation of funds to be lent to its members, and of which the majority of the members are agriculturists, and of which no member is a registered society, shall be unlimited.

Restrictions
on interest
of member
of society
with limited
liability and
a share
capital.

5. Where the liability of the members of a society is limited by shares, no member other than a registered society shall—

- (a) hold more than such portion of the share capital of the society, subject to a maximum of one-fifth, as may be prescribed by the rules; or
- (b) have or claim any interest in the shares of the society exceeding one thousand rupees.

Conditions
of registra-
tion.

6. (1) No society, other than a society of which a member is a registered society, shall be registered under this Act which does not consist of at least ten persons above the age of eighteen years and, where the object of the society is the creation of funds to be lent to its members, unless such persons—

- (a) reside in the same town or village or in the same group of villages; or,
- (b) save where the Registrar otherwise directs, are members of the same tribe, class, caste or occupation.

(2) The word "limited" shall be the last word in the name of every society with limited liability registered under this Act.

Power of
Registrar to
decide
certain
questions.

7. When any question arises whether for the purposes of this Act a person is an agriculturist or a non-agriculturist, or whether any person is a resident in a town or village or group of villages, or whether two or more villages shall be considered to form a group, or whether any person belongs to any particular tribe, class, caste or occupation, the question shall be decided by the Registrar, whose decision shall be final.

Application
for registra-
tion.

8. (1) For purposes of registration an application to register shall be made to the Registrar.

(2) The application shall be signed—

- (a) in the case of a society of which no member is a registered society, by at least ten persons qualified in

(Registration. Rights and liabilities of members.)

accordance with the requirements of section 6, subsection (1); and

- (b) in the case of a society of which a member is a registered society, by a duly authorised person on behalf of every such registered society, and where all the members of the society are not registered societies, by ten other members or, when there are less than ten other members, by all of them.

(3) The application shall be accompanied by a copy of the proposed by-laws of the society, and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Registrar may require.

9. If the Registrar is satisfied that a society has complied with the provisions of this Act and the rules and that its proposed by-laws are not contrary to the Act or to the rules, he may, if he thinks fit, register the society and its by-laws. Registration.

10. A certificate of registration signed by the Registrar shall be conclusive evidence that the society therein mentioned is duly registered unless it is proved that the registration of the society has been cancelled. Evidence of registration.

11. (1) No amendment of the by-laws of a registered society shall be valid until the same has been registered under this Act, for which purpose a copy of the amendment shall be forwarded to the Registrar. Amendment of the by-laws of a registered society.

(2) If the Registrar is satisfied that any amendment of the by-laws is not contrary to this Act or to the rules, he may, if he thinks fit, register the amendment.

(3) When the Registrar registers an amendment of the by-laws of a registered society, he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence that the same is duly registered.

Rights and liabilities of members.

12. No member of a registered society shall exercise the rights of a member unless or until he has made such payment to the society in respect of membership or acquired such interest in the society, as may be prescribed by the rules or by-laws. Member not to exercise rights till due payment made.

13. (1) Where the liability of the members of a registered society is not limited by shares, each member shall, notwithstanding the amount of his interest in the capital, have one vote only as a member in the affairs of the society. Votes of members.

(2) Where the liability of the members of a registered society is limited by shares, each member shall have as many votes as may be prescribed by the by-laws.

(3) A registered society which has invested any part of its funds in the shares of any other registered society may appoint as

Provided that no person shall enter into any building or upon 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 seven days' notice in writing of his intention to do so.

Payment for damage.

5. The officer so authorized shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector or other chief Revenue-officer of the district, and such decision shall be final.

Objections.

Hearing of objections.

5-A. (1) Any person interested in any land which has been XXXVIII of notified under section 4, sub-section (1), as being needed or likely ^{1923.} to be needed for a public purpose or for a Company may, within thirty days after the issue of the notification, object to the acquisi-

(Rights and liabilities of members. Duties of registered societies. Privileges of registered societies.)

its proxy, for the purpose of voting in the affairs of such other registered society, any one of its members.

Restrictions on transfer of share or interest.

14. (1) The transfer or charge of the share or interest of a member in the capital of a registered society shall be subject to such conditions as to maximum holding as may be prescribed by this Act or by the rules.

(2) In case of a society registered with unlimited liability a member shall not transfer any share held by him or his interest in the capital of the society or any part thereof unless—

(a) he has held such share or interest for not less than one year; and

(b) the transfer or charge is made to the society or to a member of the society.

Duties of registered societies.

Address of societies.

15. Every registered society shall have an address, registered in accordance with the rules, to which all notices and communications may be sent, and shall send to the Registrar notice of every change thereof.

Copy of Act, rules and by-laws to be open to inspection.

16. Every registered society shall keep a copy of this Act and of the rules governing such society, and of its by-laws, open to inspection free of charge at all reasonable times at the registered address of the society.

Audit.

17. (1) The Registrar shall audit or cause to be audited by some person authorised by him by general or special order in writing in this behalf the accounts of every registered society once at least in every year.

(Privileges of registered societies.)

19. Subject to any prior claim of the Government in respect of land-revenue or any money recoverable as land-revenue or of a landlord in respect of rent or any money recoverable as rent, a registered society shall be entitled in priority to other creditors to enforce any outstanding demand due to the society from a member or past member—

- (a) in respect of the supply of seed or manure or of the loan of money for the purchase of seed or manure—upon the crops or other agricultural produce of such member or person at any time within eighteen months from the date of such supply or loan;
- (b) in respect of the supply of cattle, fodder for cattle, agricultural or industrial implements or machinery, or raw materials for manufacture, or of the loan of money for the purchase of any of the foregoing things—upon any such things so supplied, or purchased in whole or in part from any such loan, or on any articles manufactured from raw materials so supplied or purchased.

20. A registered society shall have a charge upon the share or interest in the capital and on the deposits of a member or past member and upon any dividend, bonus or profits payable to a member or past member in respect of any debt due from such member or past member to the society, and may set off any sum credited or payable to a member or past member in or towards payment of any such debt.

21. Subject to the provisions of section 20, the share or interest of a member in the capital of a registered society shall not be liable to attachment or sale under any decree or order of a Court of Justice in respect of any debt or liability incurred by such member, and neither the Official Assignee under the Presidency-towns Insolvency Act, 1909, nor a Receiver under the Provincial Insolvency Act, 1907, shall be entitled to or have any claim on such share or interest.

III of 1909.
III of 1907.

22. (1) On the death of a member a registered society may transfer the share or interest of the deceased member to the person nominated in accordance with the rules made in this behalf, or, if there is no person so nominated, to such person as may appear to the committee to be the heir or legal representative of the deceased member, or pay to such nominee, heir or legal representative, as the case may be, a sum representing the value of such member's share or interest, as ascertained in accordance with the rules or by-laws:

Provided that—

- (2) in the case of a society with unlimited liability, such nominee, heir or legal representative, as the case may

* See now the Provincial Insolvency Act, 1920 (5 of 1920).

(Privileges of registered societies.)

be, may require payment by the society of the value of the share or interest of the deceased member ascertained, as aforesaid;

(4) in the case of a society with limited liability, the society shall transfer the share or interest of the deceased member to such nominee, heir or legal representative, as the case may be, being qualified in accordance with the rules and by-laws for membership of the society, or on his application within one month of the death of the deceased member to any person specified in the application who is so qualified.

(2) A registered society may pay all other moneys due to the deceased member from the society to such nominee, heir or legal representative, as the case may be.

(3) All transfers and payments made by a registered society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

Liability of past member.

23. The liability of a past member for the debts of a registered society as they existed at the time when he ceased to be a member shall continue for a period of two years from the date of his ceasing to be a member.

Liability of the estates of deceased members.

24. The estate of a deceased member shall be liable for a period of one year from the time of his decease for the debts of a registered society as they existed at the time of his decease.

Register of members.

25. Any register or list of members or shares kept by any registered society shall be *prima facie* evidence of any of the following particulars entered therein:—

- (a) the date at which the name of any person was entered in such register or list as a member;
- (b) the date at which any such person ceased to be a member.

Proof of entries in societies' books.

26. A copy of any entry in a book of a registered society regularly kept in the course of business, shall, if certified in such manner as may be prescribed by the rules, be received, in any suit or legal proceeding, as *prima facie* evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible.

Exemption from compulsory registration of instruments relating to shares and debentures of registered society.

27. Nothing in section 17, sub-section (1), clauses (b) and (c) of the Indian Registration Act, 1908, shall apply to—

- (1) any instrument relating to shares in a registered society, notwithstanding that the assets of such society consist in whole or part of immovable property; or
- (2) any debenture issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable

(Privileges of registered societies. Property and funds of registered societies.)

property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or

(3) any endorsement upon or transfer of any debenture issued by any such society.

XXXVIII of
1920.

28. (1) The Governor-General in Council, by notification in the Gazette of India, may, in the case of any registered society or class of registered society, remit the income-tax payable in respect of the profits of the society, or of the dividends or other payments received by the members of the society on account of profits;

Power to exempt from income-tax stamp-duty and registration fees.

* * * * *

XXXVIII of
1920.

(2) The Local Government, by notification in the local official Gazette, may, in the case of any registered society or class of registered society, remit—

(a) the stamp-duty with which, under any law for the time being in force, instruments executed by or on behalf of a registered society or by an officer or member and relating to the business of such society, or any class of such instruments, are respectively chargeable, and

(b) any fee payable under the law of registration for the time being in force.

Property and funds of registered societies.

29. (1) A registered society shall not make a loan to any person other than a member:

Restrictions on loans.

Provided that, with the general or special sanction of the Registrar, a registered society may make loans to another registered society.

(2) Save with the sanction of the Registrar, a society with unlimited liability shall not lend money on the security of movable property.

(3) The Local Government may, by general or special order, prohibit or restrict the lending of money on mortgage of immovable property by any registered society or class of registered societies.

30. A registered society shall receive deposits and loans from persons who are not members only to such extent and under such conditions as may be prescribed by the rules or by-laws.

Restrictions on borrowing.

(Property and funds of registered societies. Inspection of affairs.)

Restrictions on other transactions with non-members.

31. Save as provided in sections 29 and 30, the transactions of a registered society with persons other than members shall be subject to such prohibitions and restrictions, if any, as the Local Government may, by rules, prescribe.

Investment of funds.

32. (1) A registered society may invest or deposit its funds—

(a) in the Government Savings Bank, or

(b) in any of the securities specified in section 20 of the II of 1882—Indian Trusts Act, 1882, or

(c) in the shares or on the security of any other registered society, or

(d) with any bank or person carrying on the business of banking, approved for this purpose by the Registrar, or

(e) in any other mode permitted by the rules.

(2) Any investments or deposits made before the commencement of this Act which would have been valid if this Act had been in force are hereby ratified and confirmed.

Funds not to be divided by way of profit.

33. No part of the funds of a registered society shall be divided by way of bonus or dividend or otherwise among its members:

Provided that after at least one-fourth of the net profits in any year have been carried to a reserve fund, payments from the remainder of such profits and from any profits of past years available for distribution may be made among the members to such extent and under such conditions as may be prescribed by the rules or by-laws:

Provided also that in the case of a society with unlimited liability no distribution of profits shall be made without the general or special order of the Local Government in this behalf.

Contribution to charitable purpose.

34. Any registered society may, with the sanction of the Registrar, after one-fourth of the net profits in any year has been carried to a reserve fund, contribute an amount not exceeding ten per cent. of the remaining net profits to any charitable purpose, as defined in section 2 of the Charitable Endowments Act, 1890.

VI of 1890.

Inspection of affairs.

Inquiry by Registrar

35. (1) The Registrar may of his own motion, and shall on the request of the Collector, or on the application of a majority of the committee, or of not less than one-third of the members, hold an inquiry or direct some person authorized by him by order in writing in this behalf to hold an inquiry into the constitution, working and financial condition of a registered society.

(Inspection of affairs. Dissolution of society.)

(2) All officers and members of the society shall furnish such information in regard to the affairs of the society as the Registrar or the person authorized by the Registrar may require.

36. (1) The Registrar shall, on the application of a creditor of a registered society, inspect or direct some person authorized by him by order in writing in this behalf to inspect the books of the society: ^{Inspection of books of indebted society.}

Provided that—

(a) the applicant satisfies the Registrar that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

(b) the applicant deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

(2) The Registrar shall communicate the results of any such inspection to the creditor.

37. Where an inquiry is held under section 35, or an inspection is made under section 36, the Registrar may apportion the costs, or such part of the costs as he may think right, between the society, the members or creditor demanding an inquiry or inspection, and the officers or former officers of the society. ^{Costs of inquiry.}

38. Any sum awarded by way of costs under section 37 may be recovered, on application to a Magistrate having jurisdiction in the place where the person from whom the money is claimable actually and voluntarily resides or carries on business, by the distress and sale of any movable property within the limits of the jurisdiction of such Magistrate belonging to such person. ^{Recovery of costs.}

Dissolution of society.

39. (1) If the Registrar, after an inquiry has been held under section 35 or after an inspection has been made under section 36 or on receipt of an application made by three-fourths of the members of a registered society, is of opinion that the society ought to be dissolved, he may cancel the registration of the society. ^{Dissolution.}

(2) Any member of a society may, within two months from the date of an order made under sub-section (1), appeal from such order.

(3) Where no appeal is presented within two months from the making of an order cancelling the registration of a society, the order shall take effect on the expiry of that period.

(4) Where an appeal is presented within two months, the order shall not take effect until it is confirmed by the appellate authority.

(Dissolution of society.)

(5) The authority to which appeals under this section shall lie shall be the Local Government:

Provided that the Local Government may, by notification in the local official Gazette, direct that appeals shall lie to such Revenue-authority as may be specified in the notification.

Cancellation
of registra-
tion of
society.

40. Where it is a condition of the registration of a society that it should consist of at least ten members, the Registrar may, by order in writing, cancel the registration of the society if at any time it is proved to his satisfaction that the number of the members has been reduced to less than ten.

Effect of
cancellation
of registra-
tion.

41. Where the registration of a society is cancelled, the society shall cease to exist as a corporate body—

(a) in the case of cancellation in accordance with the provisions of section 39, from the date the order of cancellation takes effect;

(b) in the case of cancellation in accordance with the provisions of section 40, from the date of the order.

Winding up.

42. (1) Where the registration of a society is cancelled under section 39 or section 40, the Registrar may appoint a competent person to be liquidator of the society.

(2) A liquidator appointed under sub-section (1) shall have power—

(a) to institute and defend suits and other legal proceedings on behalf of the society by his name of office;

(b) to determine the contribution to be made by the members and past members of the society respectively to the assets of the society;

(c) to investigate all claims against the society and, subject to the provisions of this Act, to decide questions of priority arising between claimants;

(d) to determine by what persons and in what proportions the costs of the liquidation are to be borne; and

(e) to give such directions in regard to the collection and distribution of the assets of the society, as may appear to him to be necessary for winding up the affairs of the society.

(3) Subject to any rules, a liquidator appointed under this section shall, in so far as such powers are necessary for carrying out the purposes of this section, have power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means and (so far as may be) in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908.

(Dissolution of society. Rules.)

(4) Where an appeal from any order made by a liquidator under this section is provided for by the rules, it shall lie to the Court of the District Judge.

(5) Orders made under this section shall, on application, be enforced as follows:—

(a) when made by a liquidator, by any Civil Court having local jurisdiction in the same manner as a decree of such Court;

(b) when made by the Court of the District Judge on appeal, in the same manner as a decree of such Court made in any suit pending therein.

(6) Save in so far as is hereinbefore expressly provided, no Civil Court shall have any jurisdiction in respect of any matter connected with the dissolution of a registered society under this Act.

Rules.

(1) The Local Government may, for the whole or any part of the Province and for any registered society or class of such societies, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) subject to the provisions of section 5, prescribe the maximum number of shares or portion of the capital of a society which may be held by a member;

(b) prescribe the forms to be used and the conditions to be complied with in the making of applications for the registration of a society and the procedure in the matter of such applications;

(c) prescribe the matters in respect of which a society may or shall make by-laws and for the procedure to be followed in making, altering and abrogating by-laws, and the conditions to be satisfied prior to such making, alteration or abrogation;

(d) prescribe the conditions to be complied with by persons applying for admission or admitted as members, and provide for the election and admission of members, and the payment to be made and the interests to be acquired before the exercise of the right of membership;

(e) regulate the manner in which funds may be raised by means of shares or debentures or otherwise;

(f) provide for general meetings of the members and for the procedure at such meetings and the powers to be exercised by such meetings;

(Rules.)

- (g) provide for the appointment, suspension and removal of the members of the committee and other officers, and for the procedure at meetings of the committee, and for the powers to be exercised and the duties to be performed by the committee and other officers;
- (h) prescribe the accounts and books to be kept by a society and provide for the audit of such accounts and the charges, if any, to be made for such audit, and for the periodical publication of a balance-sheet showing the assets and liabilities of a society;
- (i) prescribe the returns to be submitted by a society to the Registrar and provide for the persons by whom and the form in which such returns shall be submitted;
- (j) provide for the persons by whom and the form in which copies of entries in books of societies may be certified;
- (k) provide for the formation and maintenance of a register of members and, where the liability of the members is limited by shares, of a register of shares;
- (l) provide that any dispute touching the business of a society between members or past members of the society or persons, claiming through a member or past member or between a member or past member or persons so claiming and the committee or any officer shall be referred to the Registrar for decision or, if he so directs, to arbitration, and prescribe the mode of appointing an arbitrator or arbitrators and the procedure to be followed in proceedings before the Registrar or such arbitrator or arbitrators, and the enforcement of the decisions of the Registrar or the awards of arbitrators;
- (m) provide for the withdrawal and expulsion of members and for the payments, if any, to be made to members who withdraw or are expelled and for the liabilities of past members;
- (n) provide for the mode in which the value of a deceased member's interest shall be ascertained, and for the nomination of a person to whom such interest may be paid or transferred;
- (o) prescribe the payments to be made and the conditions to be complied with by members applying for loans, the period for which loans may be made, and the amount which may be lent, to an individual member;

(Rules. Miscellaneous.)

- (p) provide for the formation and maintenance of reserve funds, and the objects to which such funds may be applied, and for the investment of any funds under the control of the society;
 - (q) prescribe the extent to which a society may limit the number of its members;
 - (r) prescribe the conditions under which profits may be distributed to the members of a society with unlimited liability and the maximum rate of dividend which may be paid by societies;
 - (s) subject to the provisions of section 39, determine in what cases an appeal shall lie from the orders of the Registrar, and prescribe the procedure to be followed in presenting and disposing of such appeals; and
 - (t) prescribe the procedure to be followed by a liquidator appointed under section 42, and the cases in which an appeal shall lie from the order of such liquidator.
- (3) The Local Government may delegate, subject to such conditions, if any, as it thinks fit, all or any of its powers to make rules under this section to any authority specified in the order of delegation.
- (4) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.
- (5) All rules made under this section shall be published in the local official Gazette, and on such publication shall have effect as if enacted in this Act.

Miscellaneous.

44. (1) All sums due from a registered society or from an officer or member or past member of a registered society as such to the Government, including any costs awarded to the Government under section 37, may be recovered in the same manner as arrears of land-revenue. Recovery of sums due to Government.

(2) Sums due from a registered society to Government and recoverable under sub-section (1) may be recovered, firstly, from the property of the society; secondly, in the case of a society of which the liability of the members is limited, from the members subject to the limit of their liability; and, thirdly, in the case of other societies, from the members.

45. Notwithstanding anything contained in this Act, the Local Government may, by special order in each case and subject to such conditions, if any, as it may impose, exempt any society from any of the requirements of this Act as to registration. Power to exempt societies from conditions as to registration.

(Miscellaneous.)

Power to exempt registered societies from provisions of the Act.

Prohibition of the use of the word "co-operative."

67 46. The Local Government may, by general or special order, exempt any registered society from any of the provisions of this Act or may direct that such provisions shall apply to such society with such modifications as may be specified in the order.

(1) No person other than a registered society shall trade or carry on business under any name or title of which the word "co-operative" is part without the sanction of the Local Government:

Provided that nothing in this section shall apply to the use by any person or his successor in interest of any name or title under which he traded or carried on business at the date on which this Act comes into operation.

(2) Whoever contravenes the provisions of this section shall be punishable with fine which may extend to fifty rupees, and in the case of a continuing offence with further fine of five rupees for each day on which the offence is continued after conviction therefor.

Indian Companies Act, 1882, not to apply.

Saving of existing societies.

The provisions of the Indian Companies Act, 1882, VI of 188 shall not apply to registered societies.

Every society now existing which has been registered under the Co-operative Credit Societies Act, 1904, shall be deemed to be registered under this Act, and its by-laws shall, so far as the same are not inconsistent with the express provisions of this Act, continue in force until altered or rescinded. X of 1904

50. [Repeal.] Repealed by s. 3 and Sch. II of the Second Repealing and Amending Act, 1914 (17 of 1914).

See now the Indian Companies Act, 1913 (7 of 1913).

THE PUNJAB COURT OF WARDS ACT, 1903.

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SCHEDULE.—ENACTMENTS REPEALED.

PUNJAB ACT NO. II OF 1903.

PASSED BY THE LIEUTENANT-GOVERNOR OF THE PUNJAB IN
COUNCIL.

(Received the assent of His Honour the Lieutenant-Governor on the 2nd June 1903, and that of His Excellency the Viceroy and Governor-General on the 12th June 1903; the Governor-General's assent was first published in the "Punjab Government Gazette" of 25th June 1903.)

AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO THE COURT OF WARDS IN THE PUNJAB.

WHEREAS it is expedient to consolidate and amend the law relating to the Court of Wards in the Punjab; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Punjab Court of Wards Act, 1903. Title and extent.

(2) It extends to the whole of the Punjab.

2 (1) The enactments specified in the schedule are hereby repealed to the extent mentioned in the third column thereof. Repeal.

(2) But all rules and appointments made, notifications and orders issued, authorities and powers conferred, farms and leases granted, rights acquired, liabilities incurred and other things done under any of those enactments shall, so far as may be, be deemed to have been respectively made, issued, conferred, granted, acquired, incurred and done under this Act.

(3) Any enactment or document referring to any of those enactments shall, so far as may be, be construed to refer to this Act or the corresponding portion thereof.

3. In this Act, unless there be something repugnant in the subject or context, the expression—

(a) "immoveable property" shall include land, benefits to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth, but shall not include growing crops or grass;

(b) "landholder" shall mean a person who possesses any interest in land, whether as proprietor, assignee of the land-revenue, lessee of waste lands or otherwise;

(c) "minor" shall mean a person who has not, within the meaning of the Indian Majority Act, 1875, attained his majority; and

(d) "ward" shall mean any person in respect of whose person, or the whole or any part of whose property,

or of whose person, and property, the Court of Wards by this Act constituted for the time being has assumed superintendence, but shall not include a joint proprietor the superintendence of whose property has been assumed by the Court of Wards under section 8.

CHAPTER II.

THE COURT OF WARDS AND ITS JURISDICTION.

Constitution of the Court of Wards and its jurisdiction. 2

4. (1) The Financial Commissioner shall be the Court of Wards for the Punjab.

(2) The Court of Wards may exercise all or any of the powers conferred on it by this Act either direct or through the Commissioner of the Division or the Deputy Commissioner of the District within the limits of which any ward may at any time reside or any part of the property of any ward may be situate, or through any other person whom it may at any time, in respect of any ward or the whole or any part of the property of any ward, appoint in that behalf.

(3) The Court of Wards may, with the sanction of the Local Government, from time to time, by general or special order, or by rule made under this Act, delegate any of its powers to any Commissioner or Deputy Commissioner or other person as aforesaid, and may at any time, with the like sanction, revoke any such delegation.

(4) The powers and authority by this Act vested in the Court of Wards shall be exercised by it subject to the control of the Local Government.

Power of Local Government to make order in certain cases directing the Court of Wards to assume superintendence of properties of land-holders.]

5. (1) Any land-holder may apply to the Local Government to make an order directing that his property be placed under the superintendence of the Court of Wards, and, upon receiving any such application, the Local Government may, if it considers expedient in the public interest so to do, make an order accordingly.

(2) When it appears to the Local Government that any land-holder is—

(a) by reason of being a female; or

(b) owing to any physical or mental defect or infirmity; or

(c) owing to his having been convicted of a non-bailable offence and to his vicious habits or bad character; or

(d) owing to his having entered upon a course of wasteful extravagance likely to dissipate his property;

incapable of managing or unfitted to manage his affairs, the Local Government may make an order directing that the property of such land-holder be placed under the superintendence of the Court of Wards:

Provided that such an order shall not be made on the ground stated in clause (c) or on the ground stated in clause (d) unless such land-holder belongs to a family of political or social importance and:

the Local Government is satisfied that it is desirable, on grounds of public policy or general interest, to make such order.

(3) Every order made by the Local Government under sub-section (1) or sub-section (2), shall be final and shall not be called in question in any Court of Law.

6. When any land-holder is a minor or a person adjudged by a competent Court to be of unsound mind and incapable of managing his affairs, the Court of Wards may make an order assuming the superintendence of the property, or the person and property of such land-holder.

Power of Court of Wards of its own motion to assume superintendence.

7. (1) When, in respect of any land-holder, an order is made by the Local Government under sub-section (1) or sub-section (2) of section 5, the Court of Wards shall assume the superintendence of the property of such land-holder, and may in its discretion also assume the superintendence of his person.

Court of Wards shall assume superintendence in cases in which an order is made under section 5 and may do so when Collector or is appointed guardian under Act VIII of 1890.

VIII of 1890.

(2) When the Deputy Commissioner is appointed or declared to be guardian of the person or property, or both, of a minor, under the provisions of section 18 of the Guardian and Wards Act, 1890, he shall intimate the fact to the Court of Wards, and the Court of Wards may thereupon, in its discretion, either assume, or refrain from assuming, the superintendence of the person or property or both (as the case may be) of such minor, and the provisions of this Act shall, if such superintendence be so assumed, apply to the person or property, or both (as the case may be), of such minor.

8. When there are two or more proprietors of any property and the shares of the several proprietors have not been separated off, and the Court of Wards, acting under section 6 or section 7, assumes the superintendence of the property of one or more, but not all, of such proprietors, the Court of Wards may assume the superintendence also of the shares of such joint-proprietor or joint-proprietors as is or are not disqualified, paying any such proprietor the surplus income accruing from his share of the property. The superintendence assumed under this section shall extend only to the management of the share of the joint proprietor in such joint property and shall not as regards such share include the power to sell or mortgage the same or any part thereof or to grant a lease thereof for a period exceeding 20 years or to create any charge thereon or interest therein.

Properties of which there are more proprietors than one.

9. Whenever the Court of Wards assumes the superintendence of the person or property of any person under any of the provisions of this Act, the order of assumption shall be notified in the Gazette, and shall specify the district the Deputy Commissioner of which shall be put in charge on behalf of the Court of Wards.

Notification of assumption of superintendence.

10. Every order made by the Court of Wards assuming, under sections 6, 7 and 8, respectively, the superintendence of the person or property, or both, of any person shall take effect from the date fixed in this behalf in the notification published under section 9, and shall be final and shall not be called in question in any Court of Law.

Operation and effect of notification under sections 6, 7 and 8.

CHAPTER III.

INQUIRY AND ACTION PRECEDING ASSUMPTION OF SUPERINTENDENCE.

Inquiry by Deputy Commissioner in order to satisfy himself as to whether action should be taken under the Act.

11. (1) For the purpose of satisfying himself as to whether, in respect of any land-holder,—

(a) the Local Government should be moved to make an order under sub-section (2) of section 5, or

(b) the Court of Wards should be moved to make an order under section 6,

or for the purpose of making any report which may be called for in connection with any application of a land-holder under sub-section (1) of section 5, the Deputy Commissioner may make such inquiry into the circumstances of such land-holder as he may deem necessary, and, pending the taking of any such action, may issue such orders for the temporary custody and protection of the person or property, or both, of such land-holder, as he thinks fit.

(2) If the land-holder be a minor, the Deputy Commissioner may direct that the person, if any, then having the custody of the minor, shall produce him, or cause him to be produced, at such place and time as the Deputy Commissioner appoints, and may make such order for the future custody of the minor, pending the orders of the Court of Wards, as he thinks proper.

(3) If the minor is a female who ought not to be compelled to appear in public, the direction under sub-section (2) shall require her to be produced in accordance with the manners and customs of the country.

(4) If the land-holder is alleged to be or is of unsound mind, the Deputy Commissioner shall make application to a competent Court in view to an inquiry being made by such Court for the purpose of ascertaining whether such person is or is not of unsound mind and incapable of managing his affairs.

Procedure in inquiries.

12. (1) For the purposes of every inquiry to be made, or direction to be given, in pursuance of any of the provisions of this Act, the Deputy Commissioner may exercise all or any of the powers of a Civil Court under the Code of Civil Procedure.*

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(2) For the purpose of protecting the property, or any part thereof, of any land-holder, pending an inquiry under sub-section (1) of section 11, the Deputy Commissioner may, subject to the direction and control of the Court of Wards, take possession thereof and appoint a manager and such care-takers in respect thereto as he may deem fit.

CHAPTER IV.

WARDSHIP AND ITS CONSEQUENCES.

Vesting of property of ward in the Court of Wards.

13. (1) Upon the publication of a notification under section 9, in respect of the property of any person, the whole of such property, at the date of the notification, shall vest in the Court of Wards, and

* See now Act V of 1908.

shall remain so vested until the Court of Wards shall, by notification under section 50, divest itself of the superintendence of the whole or any part thereof or is otherwise divested of such superintendence in due course of law.

(2) All rights accruing to and property inherited by or vesting in any ward after the publication of a notification under section 9, and while the property of such ward is under the superintendence of the Court of Wards, shall vest in the Court of Wards:

Provided that the Court of Wards may, in its discretion, assume, or refrain from assuming, the superintendence of any property which any ward may acquire, otherwise than by inheritance, subsequent to the date of the notification published under section 9.

14. No land under the superintendence of the Court of Wards shall be sold for arrears of revenue accruing while such land is under such superintendence.

Non-liability of land vested in the Court of Wards to sale for arrears of revenue.
Disabilities of wards.

15. No ward shall be competent—

(a) to transfer or create any charge on, or interest in, the whole or any part of his property which is under the superintendence of the Court of Wards, or to enter into any contract which may involve him in pecuniary liability:

Provided that nothing in this clause shall be deemed to affect the capacity of a ward to enter into a contract of marriage: but he shall not incur, in connection therewith, any pecuniary liability, except such as, having regard to the personal law to which he is subject, and to his rank and circumstances, the Court of Wards may, in writing, declare to be reasonable;

(b) without the previous sanction, in writing, of the Court of Wards, (1) to adopt or (2) to give permission to adopt, or (3) to dispose of any property by will.

16. (1) When the property of any land-holder, in respect of whom an order has been made under sub-section (1) or on the last ground stated in sub-section (2) of section 5, is released from the superintendence of the Court of Wards, such land-holder shall not be competent, without the previous sanction of the Local Government, to alienate the whole or any part of the immoveable property which has been so released, in any way, or to create any charge upon any such property extending beyond his lifetime, and every transfer made or attempted to be made, or charge created or attempted to be created, in contravention of this provision, shall be void.

Continuing disabilities in certain cases.

(2) No suits shall be brought whereby to charge any person upon any promise made after he has ceased to be a ward to pay any debt contracted during the period when he was a ward, or upon any

ratification made after he has ceased to be a ward of any promise or contract made during the above period, whether there shall or shall not be any new consideration for such promise or ratification.

Power of the Court of Wards to act on behalf of wards and to deal with their properties.

17. (1) The Court of Wards may, at any time, mortgage or sell the whole or any part of the property of a ward, and may grant leases or farms of the whole or any part of such property for such terms as it thinks fit, and may make such remissions of rental or other arrears and may generally and from time to time pass all such orders and do all such acts, not inconsistent with the provisions of this or any other enactment for the time being in force, as it may deem to be for the advantage of the ward or the benefit of his property.

(2) The Court of Wards may, for the purpose of raising a loan for the benefit of a ward or his property, hypothecate, with the consent of the Local Government, any *jāgir*, *muaf*, pension or assignment of land revenue held by the ward.

Deeds and other instruments.

18. (1) All deeds, contracts or other instruments executed by the Court of Wards in the exercise of its powers of superintendence under this Act, shall be executed by the Court of Wards in its own name.

(2) Covenants entered into by the Court of Wards shall be binding on the Court of Wards only so long as the ward or the property affected by such covenants remains under its superintendence and only to the extent of such property; and such covenants shall be binding on the ward or on the person entitled to such property after the ward or the property or both (as the case may be) shall have been released from superintendence.

(3) This section shall also apply to all deeds, contracts and other instruments executed before the commencement of this Act.

Notice of suit.

19. No suit relating to the person of any ward or to any property under the superintendence of the Court of Wards shall be instituted in any Civil or Revenue Court until the expiration of two months after notice in writing has been delivered to, or left at, the office of the Deputy Commissioner of the District specified in the order of assumption in the notification under section 9, stating the name and place of abode of the intending plaintiff, the cause of action, and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left.

Provided that notice under this section shall not be required in the case of any suit the period of limitation for which will expire within three months from the date of the notification under section 9.

Suits to be in name of Court of Wards.

20. (1) No suit (a) by or on behalf of a ward, or (b) affecting any property under the superintendence of the Court of Wards, shall be brought without the authority of the Court of Wards or of such officer as it may appoint in that behalf, and in every such

suit brought with such authority the Court of Wards shall be named as plaintiff.

(2) In every suit against a ward or affecting property under the superintendence of Court of Wards, the Court of Wards shall be named as the defendant.

(3) Suits brought by or against any Court of Wards may be instituted and conducted or defended on behalf of the Court of Wards by the Deputy Commissioner of the District specified in the order of assumption in the notification under section 9, or by the manager or other person authorized, by general or special order or rule made under this Act, in that behalf, by the Court of Wards.

CHAPTER V.

GENERAL PROVISIONS AS TO THE SUPERINTENDENCE OF THE PERSONS AND PROPERTIES OF WARDS.

21. Soon as conveniently may be after the assumption, by the Court of Wards, of the superintendence of the property of any person, the Deputy Commissioner of every district within which any part of such property may be situated, or some person authorized, in writing, by him in this behalf, shall take possession of all such property and all accounts and papers relating thereto; and shall do all other acts and things which may be necessary to secure and protect the same and place it under proper custody and control.

Court of Wards assuming superintendence of the property to take possession thereof. Procedure as to property situate in other districts.

22. The Court of Wards may from time to time direct such provision as it may think fit to be made in respect of the—

(1) superintendence and supervision of the persons of the wards and properties under its superintendence;

(2) periodical or special audit, by an independent auditor, of the accounts of properties generally, or of any particular property, as it may think fit;

(3) management of the legal affairs of properties generally, or of any particular property, as it may think fit.

Powers of Court of Wards as to superintendence and control. Audit of accounts and management of legal affairs of wards and properties.

23. The Court of Wards may from time to time regulate the expenses to be incurred in the supervision, care and management of the wards and properties under its superintendence, and generally in carrying out all or any of the purposes of this Act, and may order that such expenses, or any of them, including all salaries, gratuities and leave allowances of establishments and all contingent and other expenses whatsoever which it shall consider requisite, be charged against such property generally, or against any one or more properties comprised in such property for the purposes of which such establishments are, or have been, entertained or such expenses have been incurred.

Power of Court of Wards to charge expenses against properties under its superintendence.

24. (1) The Court of Wards may pass such orders as it thinks fit in respect of the residence of any ward whose person is, for the

Residence and education of wards.

time being under its superintendence, and, when he is a male minor, in respect of his education.

(2) The Court of Wards may from time to time require any such male minor ward to attend such tutor, class, school or college, for the purposes of education, as it thinks fit.

Allowance
for ward and
his family.

25. (1) The Court of Wards may from time to time determine what sum shall be allowed in respect of the expenses of any ward and of his family and dependents.

(2) The Court of Wards may from time to time determine what sums may be spent on the education of any minor ward whose person is for the time being under its superintendence.

CHAPTER VI.

ASCERTAINMENT AND LIQUIDATION OF LIABILITIES OF WARDS.

Notice to
claimants.

26. (1) On the publication of a notification under section 9, the Deputy Commissioner of the District specified in the order of assumption or any other Deputy Commissioner whom the Court of Wards may appoint in that behalf, shall publish in the Gazette a notice, in both the English and the Urdu languages, calling upon all persons having claims against the ward or against the property under the superintendence of the Court of Wards to notify the same in writing to such Deputy Commissioner within six months from the date of the publication of the notice.

(2) The notice may also be published at such places and in such other manner as the Court of Wards may, by general or special order, direct or by rule, made under this Act, prescribe.

(3) The Deputy Commissioner may, if he is satisfied that any claimant had reasonable excuse for not submitting his statement of claim within six months, receive his claim at any time after the expiry of the period aforesaid, but any claim so received shall, unless the Deputy Commissioner otherwise directs and notwithstanding any law, contract, decree or award to the contrary, cease to carry interest from the date of the expiry of the period aforesaid.

Presentation
of claims.

27. (1) Every claimant shall, together with his statement of claim, present full particulars thereof.

(2) Every document (including entries in books of account) on which the claimant founds his claim, or on which he relies in support thereof, shall be produced before the Deputy Commissioner with the statement of claim.

(3) Every such document shall be accompanied by a true copy of the same. The Deputy Commissioner, or such officer as he may appoint in that behalf, shall mark the original document for the purpose of identification, and, after examining and comparing the copy with it, shall retain the copy and return the original to the claimant.

28. (1) The Deputy Commissioner shall, after such inquiry as he may consider necessary, decide, as to each claim made against any ward or property, in manner in section 26 and section 27 provided, whether such claim is, either in whole or in part, to be admitted or disallowed, and shall intimate, in writing, his decision in respect of each such claim to the claimant thereof. If such liabilities cannot be paid at once the decision shall fix the interest (if any) to be paid thereon from the date of such decision to the date of the payment and discharge of such claim.

Examination into, admission and rejection of, claims.

29. Every debt or liability (other than debts due to, or liabilities incurred in favour of, the Government) to which any ward is subject, or with which any property under the superintendence of the Court of Wards or any part thereof is charged, and which is not duly notified to the said Deputy Commissioner within the time and in the manner hereinbefore prescribed, shall, subject to the provisions of section 7 and section 13 of the Indian Limitation Act, 1877,* be deemed for all purposes and on all occasions, whether during the continuance of the superintendence of the Court of Wards or afterwards, to have been duly discharged :

Bar of claims not duly notified.

XV of 1877.

Provided that the provisions of this section shall not be deemed to extinguish any such debt or liability in any case in which the Court of Wards, after assuming the superintendence of such property, releases the same from such superintendence without ascertaining and dealing with the liabilities thereof as in this chapter provided in that behalf, and that, in any such case, in computing the period of limitation applicable to any suit or application for the recovery of any such debt or the enforcement of any such liability, the time from the date of the notification of claim under section 26, to the date of the release of the property from the superintendence of the Court of Wards, shall be excluded.

30. If any document in the possession or under the control of the claimant is not produced by him as required by section 27, such document shall not be admissible in evidence in any suit or proceeding thereafter brought against a ward or as affecting any property under the superintendence of the Court of Wards by the claimant, or by any person claiming under him.

Exclusion of documents not produced.

31. (1) Nothing contained in this chapter shall be deemed to empower the Deputy Commissioner to disallow any claim, notified under section 26, which is based upon a decree passed by any competent Court, and any such decree may be proved by the production of a certified copy of the same accompanied by a certificate from the proper Court that such decree remains unsatisfied.

Decrees against wards or their properties and their execution.

(2) On the publication of a notice under section 26, all suits and all proceedings in execution of any decree against a ward or as affecting any property under the superintendence of the Court of Wards then pending in any Civil Court shall be stayed until the

* See now the Indian Limitation Act, 1908 (IX of 1908).

plaintiff or the decree-holder files a certificate that the claim has been notified in accordance with section 26.

(3) No fresh proceedings in execution of any decree against a ward or as affecting such property, other than a decree in respect of a transaction subsequent to the date of the notification under section 9, shall be instituted in, nor shall any attachment or other process in execution of such decree be issued by, any Civil Court, until the decree-holder files a certificate to the effect specified in clause (2).

Saving of
right to sue
in certain
cases.

32. (1) Subject to the provisions of section 19 and section 31, nothing in this chapter shall be construed as preventing any claimant from bringing or prosecuting any suit, in any competent Court, in respect of any claim which has been duly notified, within the time and in the manner hereinbefore prescribed, to the Deputy Commissioner, and which has, whether in whole or in part, been disallowed by him, but no suit shall at any time be brought or be maintainable in respect of any claim which has not been so notified or to set aside or modify the order of a Deputy Commissioner (if any) fixing a date for the payment of such claim or regulating the order on which claims against the ward or properties under the superintendence of the Court of Wards shall be paid.

(2) In computing any period of limitation prescribed by the ^{XV} of 1877, Indian Limitation Act, 1877,* or section 230 of the Civil Procedure ^{XIV} of 1882, Code,† every period during which proceedings have been stayed or temporarily barred by reasons of the provisions of this section or of section 31 shall be excluded.

Appeal and
revision.

33. No appeal shall lie from any decision given or order made by a Deputy Commissioner under this chapter, but nothing in this section shall be deemed in any way to limit or interfere with the power of the Court of Wards to revise any such decision or order.

Local
Government
may confer
the powers of
Deputy Com-
missioner on
any person.

34. For the purposes of this Chapter, the Local Government may, at any time or at any stage of any proceedings thereunder, invest any person with all or any of the powers of a Deputy Commissioner.

CHAPTER VII.

GUARDIANS AND MANAGERS.

Appointment,
removal and
control of
guardians
and tutors.

35. (1) The Court of Wards may from time to time appoint guardians for the care of the persons of such wards as are minors or of unsound mind, or are suffering from any physical or mental defect or infirmity, or are females and unmarried, and may control and remove such guardians, and no appointment of a guardian for any ward shall be valid unless and until it has been confirmed by the Court of Wards.

(2) In appointing a guardian under this section, the Court of Wards shall be guided, as far as may be, by the provisions of section 17 of the Guardians and Wards Act, 1890, and if a ward leaves or is ^{VIII} of 1890, removed from the custody of a guardian appointed under this sec-

* See now the Indian Limitation Act, 1908 (IX of 1908).

† See now Act V of 1908, section 48.

tion, the Deputy Commissioner of the District specified in the notification issued under section 9 may exercise the powers conferred by section 25 of the said Act on a Court as defined in that Act.

(3) The Court of Wards may appoint any person to be the tutor of any minor male ward and may control and remove such tutor. Every tutor so appointed shall discharge such duties and regulate his conduct in such manner as the Court of Wards may from time to time direct,

36. person who would be the next legal heir of a ward, or who would otherwise be immediately interested in outliving a ward, shall be appointed to be his guardian; but nothing in this section shall apply to the mother of a ward or to a testamentary guardian.

No person who can succeed to ward to be appointed guardian.

37. A guardian appointed under this chapter shall be charged with the custody of the ward, and shall, subject to the supervision and direction of the Court of Wards, and the rules (if any) made under this Act, in that behalf, make suitable provision for his maintenance, health and, if he be a minor, his education and such other matters as the personal law to which the ward is subject, requires and shall—

Duties and responsibilities of guardians.

(a) give such security, if any, as the Court of Wards thinks fit for the due performance of his duty;

(b) submit such accounts as the Court of Wards may direct;

(c) pay the balances due from him thereon;

(d) continue liable to account to the Court of Wards, after he has ceased to be guardian, for his receipts and disbursements during the period of his guardianship;

(e) apply for the sanction of the Court of Wards to any act which may involve expense not previously sanctioned by it; and

(f) be entitled to such salary or allowance, to be paid out of the proceeds of the property of the ward, as the Court of Wards thinks fit, in respect of the execution of his duties as such.

38. The Court of Wards may appoint one or more managers for any properties under its superintendence and may control and remove such managers.

Appointment, control and removal of managers.

39. A manager appointed by the Court of Wards shall, subject to the supervision and direction of the Court of Wards, and the rules (if any) made, under this Act, in that behalf, have power to collect the rents of the lands placed under his charge as well as all other money due to the ward or person whose property he manages, and to grant receipts therefor; and he may, subject to the same supervision, direction and rules (if any), grant and renew leases and farms, and do all such lawful acts as he may be generally or specially authorized by the Court of Wards to do for the good management of the property.

Powers of managers

Duties and responsibilities of managers.

40. Every manager appointed by the Court of Wards shall, subject to the supervision and direction of the Court of Wards, and to the rules (if any) made, under this Act, in that behalf, manage the property or properties placed under his charge diligently and faithfully, and he shall—

- (a) give such security, if any, as the Court of Wards thinks fit, duly to account for what he may receive in respect of the rents and profits and other income of the property under his charge;
- (b) keep accounts in such form and submit them at such times as the Court of Wards may direct;
- (c) deal with all money received by him in such manner as the Court of Wards may direct;
- (d) apply for the sanction of the Court of Wards to any act which may involve the property in expense not previously sanctioned by it;
- (e) be entitled to such salary or allowance, to be paid out of the proceeds of such property, as the Court of Wards thinks fit, in respect of the execution of duties;
- (f) be responsible for any loss occasioned to the property by his negligence or wilful default; and
- (g) continue liable to account to the Court of Wards after he has ceased to be manager for his receipts and disbursements during the period of his management.

Termination of appointment of guardian or manager.

41. The appointment of every guardian or manager appointed under this chapter, shall terminate on the Court of Wards ceasing to exercise superintendence of the person or property in respect of whom or which such guardian or manager, as the case may be, has been appointed.

Guardians and managers to be deemed to be public servants, and certain guardians to be deemed to be public accountants.

42. (1) Every guardian and manager appointed under this chapter shall be deemed to be a 'public servant' within the meaning of section 21 of the Indian Penal Code and for the purposes of **XLV** 1860. that Code.

(2) Every such manager shall be deemed to be a 'public accountant' within the meaning of the Public Accountants Act, 1850, and every such guardian shall be deemed to be a 'public accountant' within the meaning and for the purposes of sections 3 **XII** of 1850. to 5 of the Public Accountants Act, 1850.

(3) In the definition of "legal remuneration" contained in section 161 of the Indian Penal Code, the word 'Government' shall, **XLV** of 1860. for the purposes of this section, be deemed to include the Court of Wards.

43. If no such guardian or manager is appointed by the Court of Wards, the Deputy Commissioner of the district specified in the order of assumption in the notification under section 9 or any other Deputy Commissioner whom the Court of Wards may appoint in that behalf, shall be competent to do anything that might be lawfully done by a guardian of the person or a manager of the property appointed under this chapter.

Deputy Commissioner when to discharge the duties of guardian or manager.

CHAPTER VIII.

RELEASE OF PERSONS AND PROPERTIES FROM SUPERINTENDENCE.

44. The Court of Wards may, at any time, release any person or property, or both, from its superintendence:

Power to release from superintendence.

Provided that the property of a land-holder who has been made a ward in accordance with an order made under section 5, shall not be released from the superintendence of the Court of Wards without the previous sanction of the Local Government:

Provided, further, that persons or property under the charge of the Court of Wards in accordance with the provisions of sub-section (2) of section 7, shall not be released without the concurrence of the Court which appointed or declared the Deputy Commissioner to be guardian of the persons or property, or both, of the person concerned, under the Guardians and Wards Act, 1890.

VIII of 1890.

45. (1) Whenever a ward dies or ceases to be under any legal incapacity, and his property is, at the time of his death or cessation of incapacity, still encumbered with debts and liabilities, the Court of Wards may either release such property or, with the sanction of the Local Government, retain it or any part thereof under its superintendence until such debts and liabilities have been discharged.

Retention of superintendence of property until discharge of debts.

(2) In any case provided for in sub-section (1) the Court of Wards may together with the property of any such wards also retain, until the said debts and liabilities have been discharged, the property of which it has assumed the superintendence under section 8.

46. If, in the case of any property, there are more proprietors than one, the Court of Wards may retain the whole property under its superintendence if one or more of the proprietors remain wards, although other or others may have ceased to be under any legal incapacity:

Retention of superintendence where there are more proprietors than one.

Provided that in such cases a proprietor who has ceased to be disqualified shall not, after the cessation of such disqualification, be deemed to be a ward for the purposes of this Act and the Court of Wards shall pay to such proprietor the surplus income accruing from his share of the joint property.

47. (1) When the Court of Wards decides to release from its superintendence the person or property, or both, of any minor, it may, before such release, by an order in writing, appoint any person to be the guardian of the person or property, or both, of such minor.

Appointment of guardian on release of minor.

(2) Such appointment shall take effect from the date of such release.

(3) In appointing a guardian under this section the Court of Wards shall be guided by the provisions of section 17 of the Guardians and Wards Act, 1890, and in every such case the Deputy Commissioner of the District specified in the order of assumption in the notification under section 9 shall have the powers conferred upon a Deputy Commissioner under section 35 (2). VIII of 1890.

(4) Every such guardian shall have and be subject to the same rights, duties, and liabilities as if he had been appointed under the Guardians and Wards Act, 1890. V III of 1890

Disposal of property after the death of a person of whose property the Court of Wards has assumed superintendence.

48. Whenever, in the event of the death of any person of whose property the Court of Wards has assumed superintendence, the succession to his property, or any part thereof, is unclaimed, or disputed, the Court of Wards may either direct that the property, or part thereof, be made over to any person entitled to or claiming the same, or may institute a suit of interpleader against the several claimants, or may retain the superintendence thereof until a claimant has, in due course of law, established his title thereto in a competent Court.

Delivery of documents and accounts on release of property.

49. Whenever the Court of Wards releases the property of any person from its superintendence, it shall deliver to such person, or if it has appointed a guardian under sub-section (1) of section 47, to such guardian all documents of title and all papers and accounts (other than Government records) relating to such property.

Notification as to release from superintendence.

50. Whenever the Court of Wards releases any person or property from its superintendence, the fact of such release shall be notified in the Gazette, and such release shall take effect from the date fixed in this behalf in the notification.

Recovery of expenses.

51. Any expense incurred by the Court of Wards on account of any property under its superintendence may, after the release of such property, be recovered as an arrear of land-revenue due in respect of such property or any part thereof.

CHAPTER IX.

MISCELLANEOUS PROVISIONS.

Bar of suits and proceedings.

52. (1) No suit shall be brought in any Civil Court in respect of the exercise of any discretion conferred by this Act.

(2) No suit shall be brought against any officer of Government or any guardian, manager or servant appointed by and discharging his duties under a Court of Wards for anything done by him in good faith under this Act.

Investigations into matters under Chapters VI and VII to be considered judicial proceedings.

Power to make rules.

53. Every investigation conducted by a Deputy Commissioner with reference to any claim preferred before him under Chapter VI or Chapter VII or to any matter connected with any such claim shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code.

XLV of 1869.

54. The Court of Wards may, with the previous sanction of the Local Government, make rules consistent with this Act regulating all or any of the following matters, namely:—

- (a) the management of properties or of all or any property under the superintendence of the Court of Wards;
- (b) the procedure to be observed and the powers to be exercised by all or any persons in all or any proceedings under this Act; and
- (c) generally for the purpose of giving effect to all or any of the provisions of this Act.

SCHEDULE.

ENACTMENTS REPEALED.

Number and year.	Title.	Extent of repeal.
XXVI of 1864 ..	Education of male minors subject to the superintendence of the Court of Wards.	The whole so far as it applies to the Punjab.
IV of 1872 ..	The Punjab Laws Act, 1872	Sections 34 to 38, inclusive.
XII of 1878 ..	Amendment of the Punjab Laws Act, 1872.	Sections 3 and 4.

THE INDIAN FOREST ACT, 1927.
(Act XVI of 1927).

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THE SCHEDULE.

ACT NO. XVI OF 1927.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor-General on the 21st
September, 1927.)

As amended by—

ACT XXVI OF 1930 and

ACT III OF 1933.

An Act to consolidate the law relating to forests the transit of forest-produce and the duty leviable on timber and other forest-produce.

WHEREAS it is expedient to consolidate the law relating to forests, the transit of forest-produce and the duty leviable on timber and other forest-produce; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Indian Forest Act, 1927.
- (2) It extends to Bombay, Bengal, Bihar and Orissa, the United Provinces, the Punjab, the Central Provinces and the North-West Frontier Province (except the District of Hazara). Short title and extent.
- (3) The Local Government of any other province may, by notification in the local official Gazette, extend this Act to the whole or any specified part of the province.
2. In this Act, unless there is anything repugnant in the subject or context,—
 - (1) "cattle" includes elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids. Interpretation clause.
 - (2) "Forest-officer" means any person whom the Governor-General in Council, or the Local Government or any officer empowered by the Governor-General in Council or the Local Government in this behalf, may appoint to carry out all or any of the purposes of this Act or to do anything required by this Act or any rule made thereunder to be done by a Forest-officer;
 - (3) "forest-offence" means an offence punishable under this Act or under any rule made thereunder;
 - (4) "forest-produce" includes—
 - (a) the following whether found in, or brought from, a forest or not, that is to say:—
timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, mahua flowers, mahua seeds, *kuth* and myrabolams, and

(Chapter I.—Preliminary. Chapter II.—Of Reserved Forests.)

(b) the following when found in, or brought from, a forest, that is to say:—

- (i) trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned, of trees,
- (ii) plants not being trees (including grass, creepers, reeds and moss), and all parts or produce of such plants,
- (iii) wild animals and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts of produce of animals, and
- (iv) peat, surface soil, rock and minerals (including limestone, laterite, mineral oils, and all products of mines or quarries);

(4A) "owner" includes a Court of Wards in respect of property under the superintendence for charge of such Court;

(5) "river" includes any stream, canal, creek or other channels, natural or artificial;

(6) "timber" includes trees when they have fallen or have been felled, and all wood whether cut up or fashioned or hollowed out for any purpose or not; and

(7) "tree" includes palms, bamboos, stumps, brush-wood and canes.

CHAPTER II.

OF RESERVED FORESTS.

Power to
reserve
forests.

3. The Local Government may constitute any forest-land or waste-land which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled, a reserved forest in the manner hereinafter provided.

Notification
by Local
Government.

4. (1) Whenever it has been decided to constitute any land a reserved forest, the Local Government shall issue a notification in the local official Gazette—

- (a) declaring that it has been decided to constitute such land a reserved forest;
- (b) specifying, as nearly as possible, the situation and limits of such land, and
- (c) appointing an officer (hereinafter called "the Forest Settlement-officer") to inquire into and determine the existence, nature and extent of any rights alleged to exist in favour of any person in or over any land com-

(Chapter II.—Of Reserved Forests.)

prised within such limits, or in or over any forest-produce, and to deal with the same as provided in this Chapter.

Explanation.—For the purpose of clause (b), it shall be sufficient to describe the limits of the forest by roads, rivers, ridges or other well-known or readily intelligible boundaries.

(2) The officer appointed under clause (c) of sub-section (1) shall ordinarily be a person not holding any forest-office except that of Forest Settlement-officer.

(3) Nothing in this section shall prevent the Local Government from appointing any number of officers, not exceeding three, not more than one of whom shall be a person holding any forest-office except as aforesaid, to perform the duties of a Forest Settlement-officer under this Act.

5. After the issue of a notification under section 4, no right shall be acquired in or over the land comprised in such notification, except by succession or under a grant or contract in writing made or entered into by or on behalf of Government or some person in whom such right was vested when the notification was issued; and no fresh clearings for cultivation or for any other purpose shall be made in such land except in accordance with such rules as may be made by the Local Government in this behalf.

Bar of accrual
of forest
rights.

6. When a notification has been issued under section 4, the Forest Settlement-officer shall publish in the local vernacular in every town and village in the neighbourhood of the land comprised therein, a proclamation—

Proclamation
by Forest
Settlement-
officer.

- (a) specifying, as nearly as possible, the situation and limits of the proposed forest;
- (b) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest; and
- (c) fixing a period of not less than three months from the date of such proclamation, and requiring every person claiming any right mentioned in section 4 or section 5 within such period either to present to the Forest Settlement-officer a written notice specifying or to appear before him and state, the nature of such right and the amount and particulars of the compensation (if any) claimed in respect thereof.

7. The Forest Settlement-officer shall take down in writing all statements made under section 6, and shall at some convenient place inquire into all claims duly preferred under that section, and the existence of any rights mentioned in section 4 or section 5 and not claimed, under section 6 so far as the same may be ascertainable from the records of Government and the evidence of any persons likely to be acquainted with the same.

Inquiry by
Forest Settlement-
officer.

(Chapter II.—Of Reserved Forests.)

**Powers of
Forest Settlement-
officer.**

8. For the purpose of such inquiry, the Forest Settlement-officer may exercise the following powers, that is to say:—

- (a) power to enter, by himself or any officer authorised by him for the purpose, upon any land, and to survey, demarcate and make a map of the same; and
- (b) the powers of a Civil Court in the trial of suits.

**Extinction of
rights.**

9. Rights in respect of which no claim has been preferred under section 6, and of the existence of which no knowledge has been acquired by inquiry under section 7, shall be extinguished, unless, before the notification under section 20 is published, the person claiming them satisfies the Forest Settlement-officer that he had sufficient cause for not preferring such claim within the period fixed under section 6.

**Treatment of
claims
relating to
practice of
shifting
cultivation.**

10. (1) In the case of a claim relating to the practice of shifting cultivation, the Forest Settlement-officer shall record a statement setting forth the particulars of the claim and of any local rule or order under which the practice is allowed or regulated, and submit the statement to the Local Government, together with his opinion as to whether the practice should be permitted or prohibited wholly or in part.

(2) On receipt of the statement and opinion, the Local Government may make an order permitting or prohibiting the practice wholly or in part.

(3) If such practice is permitted wholly or in part, the Forest Settlement-officer may arrange for its exercise—

- (a) by altering the limits of the land under settlement so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient for the purposes of the claimants, or
- (b) by causing certain portions of the land under settlement to be separately demarcated, and giving permission to the claimants to practice shifting cultivation there-in under such conditions as he may prescribe.

(4) All arrangements made under sub-section (3) shall be subject to the previous sanction of the Local Government.

(5) The practice of shifting cultivation shall in all cases be deemed a privilege subject to control, restriction and abolition by the Local Government.

**Power to
acquire land
over which
right is
claimed.**

11. (1) In the case of a claim to a right in or over any land, other than a right-of-way or right of pasture, or a right to forest-produce or a water-course, the Forest Settlement-officer shall pass an order admitting or rejecting the same in whole or in part.

(2) If such claim is admitted in whole or in part, the Forest Settlement-officer shall either—

- (i) exclude such land from the limits of the proposed forest; or

(Chapter II.—Of Reserved Forests.)

(ii) come to an agreement with the owner thereof for the surrender of his rights; or

(iii) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1894.

(3) For the purpose of so acquiring such land—

(a) the Forest Settlement-officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1894;

(b) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section 9 of that Act;

(c) the provisions of the preceding sections of that Act shall be deemed to have been complied with; and

(d) The Collector, with the consent of the claimant, or the Court, with the consent of both parties, may award compensation in land, or partly in land and partly in money.

12. In the case of a claim to rights of pasture or to forest-produce, the Forest Settlement-officer shall pass an order admitting or rejecting the same in whole or in part.

Order on claims to rights of pasture or to forest-produce.

13. The Forest Settlement-officer, when passing any order under section 12, shall record, so far as may be practicable,—

Record to be made by Forest Settlement-officer.

(a) the name, father's name, caste, residence and occupation of the person claiming the right; and

(b) the designation, position and area of all fields or groups of fields (if any), and the designation and position of all buildings (if any) in respect of which the exercise of such rights is claimed.

14. If the Forest Settlement-officer admits in whole or in part any claim under section 12, he shall also record the extent to which the claim is so admitted, specifying the number and description of the cattle which the claimant is from time to time entitled to graze in the forest, the season during which such pasture is permitted, the quantity of timber and other forest-produce which he is from time to time authorised to take or receive, and such other particulars as the case may require. He shall also record whether the timber or other forest-produce obtained by the exercise of the rights claimed may be sold or bartered.

Record where he admits claim.

15. (1) After making such record the Forest Settlement-officer shall, to the best of his ability, and having due regard to the maintenance of the reserved forest in respect of which the

Exercise of rights admitted.

of 1894.

4 of 1894.

(Chapter II.—Of Reserved Forests.)

claim is made, pass such orders as will ensure the continued exercise of the rights so admitted.

(2) For this purpose the Forest Settlement-officer may—

- (a) set out some other forest-tract of sufficient extent, and in a locality reasonably convenient, for the purposes of such claimants, and record an order conferring upon them a right of pasture or to forest-produce (as the case may be) to the extent so admitted; or
- (b) so alter the limits of the proposed forest as to exclude forest-land of sufficient extent, and in a locality reasonably convenient, for the purposes of the claimants; or
- (c) record an order, continuing to such claimants a right of pasture or to forest-produce, as the case may be, to the extent so admitted, at such seasons, within such portions of the proposed forest, and under such rules, as may be made in this behalf by the Local Government.

Commutation of rights.

16. In case the Forest Settlement-officer finds it impossible, having due regard to the maintenance of the reserved forest, to make such settlement under section 15 as shall ensure the continued exercise of the said rights to the extent so admitted, he shall, subject to such rules as the Local Government may make in this behalf, commute such rights, by the payment to such persons of a sum of money in lieu thereof, or by the grant of land, or in such other manner as he thinks fit.

Appeal from order passed under section 11, section 12, section 15 or section 16.

17. Any person who has made a claim under this Act, or any Forest-officer or other person generally or specially empowered by the Local Government in this behalf, may, within three months from the date of the order passed on such claim by the Forest Settlement-officer under section 11, section 12, section 15 or section 16, present an appeal from such order to such officer of the Revenue Department, of rank not lower than that of a Collector, as the Local Government may, by notification in the local official Gazette, appoint to hear appeals from such orders:

Provided that the Local Government may establish a Court (hereinafter called the Forest Court) composed of three persons to be appointed by the Local Government, and, when the Forest Court has been so established, all such appeals shall be presented to it.

Appeal under section 17.

18. (1) Every appeal under section 17 shall be made by petition in writing, and may be delivered to the Forest Settlement-officer, who shall forward it without delay to the authority competent to hear the same.

(2) If the appeal be to an officer appointed under section 17, it shall be heard in the manner prescribed for the time being for the hearing of appeals in matters relating to land-revenue.

(Chapter II.—Of Reserved Forests.)

(3) If the appeal be to the Forest Court, the Court shall fix a day and a convenient place in the neighbourhood of the proposed forest for hearing the appeal, and shall give notice thereof to the parties, and shall hear such appeal accordingly.

(4) The order passed on the appeal by such officer or Court, or by the majority of the members of such Court, as the case may be, shall, subject only to revision by the Local Government, be final.

19. The Local Government, or any person who has made a claim under this Act, may appoint any person to appear, plead and act on its or his behalf before the Forest Settlement-officer, or the appellate officer or Court, in the course of any inquiry or appeal under this Act. Pleaders.

20. (1) When the following events have occurred, namely:— Notification declaring forest reserved.
- (a) the period fixed under section 6 for preferring claims has elapsed, and all claims, if any, made under that section or section 9 have been disposed of by the Forest Settlement-officer;
 - (b) if any such claims have been made, the period limited by section 17 for appealing from the orders passed on such claims has elapsed, and all appeals (if any) presented within such period have been disposed of by the appellate officer or Court; and
 - (c) all lands (if any) to be included in the proposed forest, which the Forest Settlement-officer has, under section 11, elected to acquire under the Land Acquisition Act, 1894, have become vested in the Government under section 16 of that Act.

of 1894.

the Local Government shall publish a notification in the local official Gazette, specifying definitely, according to boundary-marks erected or otherwise, the limits of the forest which is to be reserved, and declaring the same to be reserved from a date fixed by the notification.

(2) From the date so fixed such forest shall be deemed to be a reserved forest.

21. The Forest-officer shall, before the date fixed by such notification, cause a translation thereof into the local vernacular to be published in every town and village in the neighbourhood of the forest. Publication of translation of such notification in neighbourhood of forest.

22. The Local Government may, within five years from the publication of any notification under section 20, revise any arrangement made under section 15 or section 18, and may for this purpose rescind or modify any order made under section 15 or section 18; and direct that any one of the proceedings specified in section 15 be taken in lieu of any other of such proceedings, Power to revise arrangement made under section 15 or section 18.

(Chapter II.—Of Reserved Forests.)

or that the rights admitted under section 12 be commuted under section 16.

No right
acquired
over reserved
forest, except
as here
provided.

23. No right of any description shall be acquired in or over a reserved forest except by succession or under a grant or contract in writing made by or on behalf of the Government or some person in whom such right was vested when the notification under section 20 was issued.

Rights not to
be alienated
without
sanction.

24. (1) Notwithstanding anything contained in section 23, no right continued under clause (c) of sub-section (2) of section 15 shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the sanction of the Local Government:

Provided that, when any such right is appendant to any land or house, it may be sold or otherwise alienated with such land or house.

(2) No timber or other forest-produce obtained in exercise of any such right shall be sold or bartered except to such extent as may have been admitted in the order recorded under section 14.

Power to
stop ways
and water-
courses in
reserved
forests.

25. The Forest-officer may, with the previous sanction of the Local Government or of any officer duly authorised by it in this behalf, stop any public or private way or water-course in a reserved forest, provided that a substitute for the way or water-course so stopped, which the Local Government deems to be reasonably convenient, already exists, or has been provided or constructed by the Forest-officer in lieu thereof.

Acts prohibi-
ed in such
forests.

(1) Any person who—

- (a) makes any fresh clearing prohibited by section 5, or
- (b) sets fire to a reserved forest, or, in contravention of any rules made by the Local Government in this behalf, kindles any fire, or leaves any fire burning, in such manner as to endanger such a forest;

or who, in a reserved forest—

- (c) kindles, keeps or carries any fire except at such seasons as the Forest-officer may notify in this behalf;
- (d) trespasses or pastures cattle, or permits cattle to trespass;
- (e) causes any damage by negligence in felling any tree or cutting or dragging any timber;
- (f) fells, girdles, lops, taps or burns any tree or strips off the bark or leaves from, or otherwise damages, the same;
- (g) quarries stone, burns lime or charcoal, or collects, subjects to any manufacturing process, or removes, any forest-produce;

(Chapter II.—Of Reserved Forests. Chapter III.—Of Village Forests.)

- (h) clears or breaks up any land for cultivation or any other purpose;
- (i) in contravention of any rules made in this behalf by the Local Government hunts, shoots, fishes, poisons water or sets traps or snares; or
- (j) in any area in which the Elephants' Preservation Act, 1879, is not in force, kills or catches elephants in contravention of any rules so made;

vi of 1879.

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both, in addition to such compensation for damage done to the forest as the convicting Court may direct to be paid.

(2) Nothing in this section shall be deemed to prohibit—

- (a) any act done by permission in writing of the Forest-officer, or under any rule made by the Local Government; or
- (b) the exercise of any right continued under clause (c) of sub-section (2) of section 15, or created by grant or contract in writing made by or on behalf of Government under section 23.

(3) Whenever fire is caused wilfully or by gross negligence in a reserved forest, the Local Government may (notwithstanding that any penalty has been inflicted under this section) direct that in such forest or any portion thereof the exercise of all rights of pasture or to forest-produce shall be suspended for such period as it thinks fit.

27. (1) The Local Government may, subject to the control of the Governor-General in Council, by notification in the local official Gazette, direct that, from a date fixed by such notification, any forest or any portion thereof reserved under this Act shall cease to be a reserved forest. Power to declare forest no longer reserved.

(2) From the date so fixed, such forest or portion shall cease to be reserved; but the rights (if any) which have been extinguished therein shall not revive in consequence of such cessation.

CHAPTER III.

OF VILLAGE-FORESTS.

28. (1) The Local Government may assign to any village-community the rights of Government to or over any land which has been constituted a reserved forest, and may cancel such assignment. All forests so assigned shall be called village-forests. Formation of village-forests.

(Chapter III.—Of Village-forests. Chapter IV.—Of Protected Forests.)

(2) The Local Government may make rules for regulating the management of village-forests, prescribing the conditions under which the community to which any such assignment is made may be provided with timber or other forest-produce or pasture, and their duties for the protection and improvement of such forest.

(3) All the provisions of this Act relating to reserved forests shall (so far as they are not inconsistent with the rules so made) apply to village-forests.

CHAPTER IV.

OF PROTECTED FORESTS.

Protected forests.

29. (1) The Local Government may, by notification in the local official Gazette, declare the provisions of this Chapter applicable to any forest-land or waste-land which is not included in a reserved forest, but which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled.

(2) The forest-land and waste-lands comprised in any such notification shall be called a "protected forest."

(3) No such notification shall be made unless the nature and extent of the rights of Government and of private persons in or over the forest-land or waste-land comprised therein have been inquired into and recorded at a survey or settlement, or in such other manner as the Local Government thinks sufficient. Every such record shall be presumed to be correct until the contrary is proved:

Provided that, if, in the case of any forest-land or waste-land, the Local Government thinks that such inquiry and record are necessary, but that they will occupy such length of time as in the meantime to endanger the rights of Government, the Local Government may, pending such inquiry and record, declare such land to be a protected forest, but so as not to abridge or affect any existing rights of individuals or communities.

Power to issue notification reserving trees, etc.

30. The Local Government may, by notification in the local official Gazette,—

(a) declare any trees or class of trees in a protected forest to be reserved from a date fixed by the notification;

(b) declare that any portion of such forest specified in the notification shall be closed for such term, not exceeding thirty years, as the Local Government thinks fit, and that the rights of private persons, if any, over such portion shall be suspended during such term, provided that the remainder of such forest be sufficient, and in a locality reasonably convenient, for the

(Chapter IV.—Of Protected Forests.)

due exercise of the rights suspended in the portion so closed; or

- c) prohibit, from a date fixed as aforesaid, the quarrying of stone, or the burning of lime or charcoal, or the collection or subjection to any manufacturing process, or removal of, any forest-produce in any such forest, and the breaking up or clearing for cultivation, for building, for herding cattle or for any other purpose, of any land in any such forest.

31. The Collector shall cause a translation into the local vernacular of every notification issued under section 30 to be affixed in a conspicuous place in every town and village in the neighbourhood of the forest comprised in the notification:

Publication of translation of such notification in neighbourhood.

32. The Local Government may make rules to regulate the following matters, namely:—

Power to make rules for protected forests.

- (a) the cutting, sawing, conversion and removal of trees and timber, and the collection, manufacture and removal of forest-produce, from protected forests;
- (b) the granting of licences to the inhabitants of towns and villages in the vicinity of protected forests to take trees, timber or other forest-produce for their own use, and the production and return of such licences by such persons;
- (c) the granting of licences to persons felling or removing trees or timber or other forest-produce from such forests for the purposes of trade, and the production and return of such licences by such persons;
- (d) the payments, if any, to be made by the persons mentioned in clauses (b) and (c) for permission to cut such trees, or to collect and remove such timber or other forest-produce;
- (e) the other payments, if any, to be made by them in respect of such trees, timber and produce, and the places where such payment shall be made;
- (f) the examination of forest-produce passing out of such forests;
- (g) the clearing and breaking up of land for cultivation or other purposes in such forests;
- (h) the protection from fire of timber lying in such forests and of trees reserved under section 30;
- (i) the cutting of grass and pasturing of cattle in such forests;
- (j) hunting, shooting, fishing, poisoning water and setting traps or snares in such forests, and the killing or catching of elephants in such forests in areas in which the Elephants' Preservation Act, 1879, is not in force;

(Chapter IV.—Of Protected Forests.)

- (k) the protection and management of any portion of a forest closed under section 30; and
- (l) the exercise of rights referred to in section 29.

Penalties for acts in contravention of notification under section 30 or of rules under section 32.

33. (1) Any person who commits any of the following offences, namely:—

- (a) fells, girdles, lops, taps or burns any tree reserved under section 30, or strips off the bark or leaves from, or otherwise damages, any such tree;
- (b) contrary to any prohibition under section 30, quarries any stone, or burns any lime or charcoal, or collects, subjects to any manufacturing process, or removes any forest-produce;
- (c) contrary to any prohibition under section 30, breaks up or clears for cultivation or any other purpose any land in any protected forest;
- (d) sets fire to such forest, or kindles a fire without taking all reasonable precautions to prevent its spreading to any tree reserved under section 30, whether standing, fallen or felled, or to any closed portion of such forest;
- (e) leaves burning any fire kindled by him in the vicinity of any such tree or closed portion;
- (f) fells any tree or drags any timber so as to damage any tree reserved as aforesaid;
- (g) permits cattle to damage any such tree;
- (h) infringes any rule made under section 32;

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(2) whenever fire is caused wilfully or by gross negligence in a protected forest, the Local Government may, notwithstanding that any penalty has been inflicted under this section, direct that in such forest or any portion thereof the exercise of any right of pasture or to forest-produce shall be suspended for such period as it thinks fit.

Nothing in this Chapter to prohibit acts done in certain cases.

34. Nothing in this Chapter shall be deemed to prohibit any act done with the permission in writing of the Forest-officer, or in accordance with rules made under section 32, or, except as regards any portion of a forest closed under section 30, or as regards any rights the exercise of which has been suspended under section 33, in the exercise of any right recorded under section 29.

(Chapter V.—Of the Control over Forests and Lands not being the Property of Government.)

CHAPTER V.

OF THE CONTROL OVER FORESTS AND LANDS NOT BEING THE PROPERTY OF GOVERNMENT.

35. (1) The Local Government may, by notification in the local official Gazette, regulate or prohibit in any forest or waste-land— Protection of forests for special purposes.

- (a) the breaking up or clearing of land for cultivation;
- (b) the pasturing of cattle; or
- (c) the firing or clearing of the vegetation;

when such regulation or prohibition appears necessary for any of the following purposes:—

- (i) for protection against storms, winds, rolling stones, floods and avalanches;
- (ii) for the preservation of the soil on the ridges and slopes and in the valleys of hilly tracts, the prevention of landslips or of the formation of ravines and torrents, or the protection of land against erosion, or the deposit thereon of sand, stones or gravel;
- (iii) for the maintenance of a water-supply in springs, rivers and tanks;
- (iv) for the protection of roads, bridges, railways and other lines of communication;
- (v) for the preservation of the public health.

(2) The Local Government may, for any such purpose, construct at its own expense, in or upon any forest or waste-land, such work as it thinks fit.

(3) No notification shall be made under sub-section (1) nor shall any work be begun under sub-section (2), until after the issue of a notice to the owner of such forest or land calling on him to show cause, within a reasonable period to be specified in such notice, why such notification should not be made or work constructed, as the case may be, and until his objections, if any, and any evidence he may produce in support of the same, have been heard by an officer duly appointed in that behalf and have been considered by the Local Government.

36. (1) In case of neglect of, or wilful disobedience to, any regulation or prohibition under section 35, or if the purposes of any work to be constructed under that section so require, the Local Government may, after notice in writing to the owner of such forest or land and after considering his objections, if any, place the same under the control of a Forest-officer, and may declare that all or any of the provisions of this Act relating to reserved forests shall apply to such forest or land. Power to assume management of forests.

(Chapter V.—Of the Control over Forests and Lands not being the Property of Government. Chapter VI.—Of the Duty on Timber and other Forest-produce.)

(2) The net profits, if any, arising from the management of such forest or land shall be paid to the said owner.

Expropriation
of forests in
certain
cases.

37. (1) In any case under this Chapter in which the Local Government considers that, in lieu of placing the forest or land under the control of a Forest-officer, the same should be acquired for public purposes, the Local Government may proceed to acquire it in the manner provided by the Land Acquisition Act, 1894. 10

(2) The owner of any forest or land comprised in any notification under section 35 may, at any time not less than three or more than twelve years from the date thereof, require that such forest or land shall be acquired for public purposes, and the Local Government shall acquire such forest or land accordingly.

Protection of
forests at
request of
owners.

38. (1) The owner of any land or, if there be more than one owner thereof, the owners of shares therein amounting in the aggregate to at least two-thirds thereof may, with a view to the formation or conservation of forests thereon, represent in writing to the Collector their desire—

(a) that such land be managed on their behalf by the Forest-officer as a reserved or a protected forest on such terms as may be mutually agreed upon; or

(b) that all or any of the provisions of this Act be applied to such land.

(2) In either case, the Local Government may, by notification in the local official Gazette, apply to such land such provisions of this Act as it thinks suitable to the circumstances thereof and as may be desired by the applicants.

CHAPTER VI.

OF THE DUTY ON TIMBER AND OTHER FOREST-PRODUCE.

Power to
impose duty
on timber and
other forest-
produce.

39. (1) The Local Government may levy a duty in such manner, at such places and at such rates as it may declare by notification in the local official Gazette on all timber or other forest-produce—

(a) which is produced in British India, and in respect of which the Government has any right;

(b) which is brought from any place outside British India:

Provided that a notification directing the levy of a duty, in the case of timber and other forest-produce brought from any place outside British India which is not under the control of the Local Government, shall not be issued without the previous sanction of the Governor-General in Council.

(Chapter VI.—Of the Duty on Timber and other Forest-produce.
Chapter VII.—Of the Control of Timber and other Forest-produce in Transit.)

(2) In every case in which such duty is directed to be levied *ad valorem*, the Local Government may fix by like notification the value on which such duty shall be assessed.

(3) All duties on timber or other forest-produce which, at the time when this Act comes into force in any territory, are levied therein under the authority of the Local Government, shall be deemed to be and to have been duly levied under the provisions of this Act.

40. Nothing in this Chapter shall be deemed to limit the amount, if any, chargeable as purchase-money or royalty on timber or other forest-produce, although the same is levied on such timber or produce while in transit, in the same manner as duty is levied.

Limit not to apply to purchase money or royalty.

CHAPTER VII.

OF THE CONTROL OF TIMBER AND OTHER FOREST-PRODUCE IN TRANSIT.

41. (1) The control of all rivers and their banks as regards the floating of timber, as well as the control of all timber and other forest-produce in transit by land or water, is vested in the Local Government, and it may make rules to regulate the transit of all timber and other forest-produce.

Power to make rules to regulate transit of forest-produce.

(2) In particular and without prejudice to the generality of the foregoing power such rules may—

- (a) prescribe the routes by which alone timber or other forest-produce may be imported, exported or moved into, from or within British India;
- (b) prohibit the import or export or moving of such timber or other produce without a pass from an officer duly authorised to issue the same, or otherwise than in accordance with the conditions of such pass;
- (c) provide for the issue, production and return of such passes and for the payment of fees therefor;
- (d) provide for the stoppage, reporting, examination and marking of timber or other forest-produce in transit, in respect of which there is reason to believe that any money is payable to Government on account of the price thereof, or on account of any duty, fee, royalty or charge due thereon, or, to which it is desirable for the purposes of this Act to affix a mark;
- (e) provide for the establishment and regulation of depôts to which such timber or other produce shall be taken.

(Chapter VII.—Of the Control of Timber and other Forest-produce in Transit.)

by those in charge of it for examination, or for the payment of such money, or in order that such marks may be affixed to it, and the conditions under which such timber or other produce shall be brought to, stored at and removed from such depôts;

- (f) prohibit the closing up or obstructing of the channel or banks of any river used for the transit of timber or other forest-produce, and the throwing of grass, brushwood, branches or leaves into any such river or any act which may cause such river to be closed or obstructed;
- (g) provide for the prevention or removal of any obstruction of the channel or banks of any such river, and for recovering the cost of such prevention or removal from the person whose acts or negligence necessitated the same;
- (h) prohibit absolutely or subject to conditions, within specified local limits, the establishment of sawpits, the converting, cutting, burning, concealing or marking of timber, the altering or effacing of any marks on the same, or the possession or carrying of marking hammers or other implements used for marking timber;
- (i) regulate the use of property marks for timber, and the registration of such marks; prescribe the time for which such registration shall hold good; limit the number of such marks that may be registered by any one person, and provide for the levy of fees for such registration.

(3) The Local Government may direct that any rule made under this section shall not apply to any specified class of timber or other forest-produce or to any specified local area.

Penalty for breach of rules made under section 41.

42. (1) The Local Government may by such rules prescribe as penalties for the contravention thereof imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

(2) Such rules may provide that penalties which are double of those mentioned in sub-section (1) may be inflicted in cases where the offence is committed after sunset and before sunrise, or after preparation for resistance to lawful authority, or where the offender has been previously convicted of a like offence.

Government and Forest-officers not liable for damage to forest-produce at depôts.

43. The Government shall not be responsible for any loss or damage which may occur in respect of any timber or other forest-produce while at a depôt established under a rule made under section 41, or while detained elsewhere, for the purposes of this Act; and no Forest-officer shall be responsible for any such

(Chapter VII.—Of the Control of Timber and other Forest-produce in Transit. Chapter VIII.—Of the Collection of Drift and Stranded Timber.)

loss or damage, unless he causes such loss or damage negligently, maliciously or fraudulently.

44. In case of any accident or emergency involving danger to any property at any such depôt, every person employed at such depôt, whether by the Government or by any private person, shall render assistance to any Forest-officer or Police-officer manding his aid in averting such danger or securing such property from damage or loss.

All persons bound to aid in case of accident at depôt.

CHAPTER VIII.

OF THE COLLECTION OF DRIFT AND STRANDED TIMBER.

45. (1) All timber found adrift, beached, stranded or sunk; all wood or timber bearing marks which have not been registered in accordance with the rules made under section 41, on which the marks have been obliterated, altered or defaced by fire or otherwise; and

Certain kinds of timber to be deemed property of Government until title thereto proved, and may be collected accordingly.

in such areas as the Local Government directs, all unmarked wood and timber; shall be deemed to be the property of Government, unless and until any person establishes his right and title thereto, as provided in this Chapter.

(2) Such timber may be collected by any Forest-officer or other person entitled to collect the same by virtue of any rule made under section 51, and may be brought to any depôt which the Forest-officer may notify as a depôt for the reception of drift timber.

(3) The Local Government may, by notification in the local official Gazette, exempt any class of timber from the provisions of this section.

46. Public notice shall from time to time be given by the Forest-officer of timber collected under section 45. Such notice shall contain a description of the timber, and shall require any person claiming the same to present to such officer, within a period not less than two months from the date of such notice, a written statement of such claim.

Notice to claimants of drift timber.

47. (1) When any such statement is presented as aforesaid, the Forest-officer may, after making such inquiry as he thinks fit, either reject the claim after recording his reasons for so doing, or deliver the timber to the claimant.

Procedure on claim preferred to such timber.

(2) If such timber is claimed by more than one person, the Forest-officer may either deliver the same to any of such persons whom he deems entitled thereto, or may refer the claimants to

(Chapter VIII.—Of the Collection of Drift and Stranded Timber.)

the Civil Courts, and retain the timber pending the receipt of an order from any such Court for its disposal.

(3) Any person whose claim has been rejected under this section may, within three months from the date of such rejection, institute a suit to recover possession of the timber claimed by him; but no person shall recover any compensation or costs against the Government, or against any Forest-officer, on account of such rejection, or the detention or removal of any timber, or the delivery thereof to any other person under this section.

(4) No such timber shall be subject to process of any Civil, Criminal or Revenue Court until it has been delivered, or a suit has been brought, as provided in this section.

Disposal of unclaimed timber.

48. If no such statement is presented as aforesaid, or if the claimant omits to prefer his claim in the manner and within the period fixed by the notice issued under section 46, or on such claim having been so preferred by him and having been rejected, omits to institute a suit to recover possession of such timber within the further period fixed by section 47, the ownership of such timber shall vest in the Government, or, when such timber has been delivered to another person under section 47, in such other person free from all encumbrances not created by him.

Government and its officers not liable for damage to such timber.

49. The Government shall not be responsible for any loss or damage which may occur in respect of any timber collected under section 45, and no Forest-officer shall be responsible for any such loss or damage, unless he causes such loss or damage negligently, maliciously or fraudulently.

Payments to be made by claimant before timber is delivered to him.

50. No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until he has paid to the Forest-officer or other person entitled to receive it such sum on account thereof as may be due under any rule made under section 51.

Power to make rules and prescribe penalties.

51. (1) The Local Government may make rules to regulate the following matters, namely:—

- (a) the salving, collection and disposal of all timber mentioned in section 45;
- (b) the use and registration of boats used in salving and collecting timber;
- (c) the amounts to be paid for salving, collecting, moving, storing or disposing of such timber; and
- (d) the use and registration of hammers and other instruments to be used for marking such timber.

(Chapter VIII.—Of the Collection of Drift and Stranded Timber. Chapter IX.—Penalties and Procedure.)

(2) The Local Government may prescribe, as penalties for the contravention of any rules made under this section, imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

CHAPTER IX.

PENALTIES AND PROCEDURE.

52. (1) When there is reason to believe that a forest-offence has been committed in respect of any forest-produce, such produce, together with all tools, boats, carts or cattle used in committing any such offence, may be seized by any Forest-officer or Police-officer. Seizure of property liable to confiscation.

(2) Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made:

Provided that, when the forest-produce with respect to which such offence is believed to have been committed is the property of Government, and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

53. Any Forest-officer of a rank not inferior to that of a Ranger who, or whose subordinate, has seized any tools, boats, carts or cattle under section 52, may release the same on the execution by the owner thereof of a bond for the production of the property so released, if and when so required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made. Power to release property seized under section 52.

54. Upon the receipt of any such report, the Magistrate shall, with all convenient despatch, take such measures as may be necessary for the arrest and trial of the offender and the disposal of the property according to law. Procedure thereupon.

55. (1) All timber or forest-produce which is not the property of Government and in respect of which a forest-offence has been committed, and all tools, boats, carts and cattle used in committing any forest-offence, shall be liable to confiscation. Forest-produce, tools, etc., when liable to confiscation.

(2) Such confiscation may be in addition to any other punishment prescribed for such offence.

56. When the trial of any forest-offence is concluded, any forest-produce in respect of which such offence has been committed shall, if it is the property of Government or has been confiscated, be taken charge of by a Forest-officer, and, in any other case, may be disposed of in such manner as the Court may direct. Disposal, on conclusion of trial for forest-offence, of produce in respect of which it was committed.

Procedure when offender not known, or cannot be found.

(Chapter IX.—Penalties and Procedure.)
 57. When the offender is not known or cannot be found, the Magistrate may, if he finds that an offence has been committed, order the property in respect of which the offence has been committed to be confiscated and taken charge of by the Forest-officer, or to be made over to the person whom the Magistrate deems to be entitled to the same:

Provided that no such order shall be made until the expiration of one month from the date of seizing such property, or without hearing the person, if any, claiming any right thereto, and the evidence, if any, which he may produce in support of his claim.

Procedure as to perishable property seized under section 52.

58. The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section 52 and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it had not been sold.

Appeal from orders under section 55, section 56 or section 57.

59. The officer who made the seizure under section 52, or any of his official superiors, or any person claiming to be interested in the property so seized, may, within one month from the date of any order passed under section 55, section 56 or section 57, appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final.

Property when to vest in Government.

60. When an order for the confiscation of any property has been passed under section 55 or section 57, as the case may be, and the period limited by section 59 for an appeal from such order has elapsed, and no such appeal has been preferred, or when, on such an appeal being preferred, the Appellate Court confirms such order in respect of the whole or a portion of such property, such property or such portion thereof, as the case may be, shall vest in the Government free from all incumbrances.

Saving of power to release property seized.

61. Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the Local Government from directing at any time the immediate release of any property seized under section 52.

Punishment for wrongful seizure.

62. Any Forest-officer or Police-officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary marks.

63. Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code—

(a) knowingly counterfeits upon any timber or standing tree a mark used by Forest-officers to indicate that such timber or tree is the property of the Government

(Chapter IX.—Penalties and Procedure.)

or of some person, or that it may lawfully be cut or removed by some person; or

(b) alters, defaces or obliterates any such mark placed on a tree or on timber by or under the authority of a Forest-officer; or

(c) alters, moves, destroys or defaces any boundary-mark of any forest or waste-land to which the provisions of this Act are applied,

shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

64. (1) Any Forest-officer or Police-officer may, without orders from a Magistrate and without a warrant, arrest any person against whom a reasonable suspicion exists of his having been concerned in any forest-offence punishable with imprisonment for one month or upwards. Power to arrest without warrant.

(2) Every officer making an arrest under this section shall, without unnecessary delay and, subject to the provisions of this Act as to release on bond, take or send the person arrested before the Magistrate having jurisdiction in the case, or to the officer in charge of the nearest police-station.

(3) Nothing in this section shall be deemed to authorise such arrest for any act which is an offence under Chapter IV unless such act has been prohibited under clause (c) of section 30.

65. Any Forest-officer of a rank not inferior to that of a Ranger, who or whose subordinate, has arrested any person under the provisions of section 64, may release such person on his executing a bond to appear, if and when so required, before the Magistrate having jurisdiction in the case, or before the officer in charge of the nearest police-station. Power to release on a bond a person arrested.

66. Every Forest-officer and Police-officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest-offence. Power to prevent commission of offence.

67. The District Magistrate or any Magistrate of the first class specially empowered in this behalf by the Local Government may try summarily, under the Code of Criminal Procedure, 1898, any forest-offence punishable with imprisonment for a term not exceeding six months, or fine not exceeding five hundred rupees, or both. Power to try offences summarily.

V of 1898.

68. (1) The Local Government may, by notification in the local official Gazette, empower a Forest-officer— Power to compound offences.

(a) to accept from any persons against whom a reasonable suspicion exists that he has committed any forest-

(Chapter IX.—Penalties and Procedure. Chapter X.—
Cattle-trespass.)

offence, other than an offence specified in section 62 or section 63, a sum of money by way of compensation for the offence which such person is suspected to have committed, and

(b) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.

(2) On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property.

(3) A Forest-officer shall not be empowered under this section unless he is a Forest-officer of a rank not inferior to that of a Ranger and is in receipt of a monthly salary amounting to at least one hundred rupees, and the sum of money accepted as compensation under clause (a) of sub-section (1) shall in no case exceed the sum of fifty rupees.

Presumption
that forest
produce
belongs to
Government.

69. When in any proceedings taken under this Act, or in consequence of anything done under this Act, a question arises as to whether any forest-produce is the property of the Government, such produce shall be presumed to be the property of the Government until the contrary is proved.

CHAPTER X.

CATTLE-TRESPASS.

Cattle-
trespass Act,
1871.
to apply.

70. Cattle trespassing in a reserved forest or in any portion of a protected forest which has been lawfully closed to grazing shall be deemed to be cattle doing damage to a public plantation within the meaning of section 11 of the Cattle-trespass Act, 1871, I of 1871, and may be seized and impounded as such by any Forest-officer or Police-officer.

Power to alter
fines fixed
under that
Act.

71. The Local Government may, by notification in the local official Gazette, direct that, in lieu of the fines fixed under section 12 of the Cattle-trespass Act, 1871, there shall be levied for each head of cattle impounded under section 70 of this Act such fines as it thinks fit, but not exceeding the following, that is to say:

For each elephant .. .. .	.. .. .	.. .. .	.. .. .	.. .. .	ten rupees.
For each buffalo or camel .. .. .	.. .. .	.. .. .	.. .. .	.. .. .	two rupees.
For each horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow or heifer .. .. .	.. .. .	.. .. .	.. .. .	.. .. .	one rupee.
For each calf, ass, pig, ram, ewe, sheep, lamb, goat or kid .. .. .	.. .. .	.. .. .	.. .. .	.. .. .	eight annas.

(Chapter XI.—Of Forest-officers. Chapter XII.—Subsidiary Rules.)

CHAPTER XI.

OF FOREST-OFFICERS.

72. (1) The Local Government may invest any Forest-officer with all or any of the following powers, that is to say:—

- (a) power to enter upon any land and to survey, demarcate and make a map of the same;
- (b) the powers of a Civil Court to compel the attendance of witnesses and the production of documents and material objects;
- (c) power to issue a search-warrant under the Code of Criminal Procedure, 1898; and
- (d) power to hold an inquiry into forest-offences, and, in the course of such inquiry, to receive and record evidence.

Local Government may invest Forest-officers with certain powers.

of 1898.

(2) Any evidence recorded under clause (d) of sub-section (1) shall be admissible in any subsequent trial before a Magistrate, provided that it has been taken in the presence of the accused person.

73. All Forest-officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

Forest-officers deemed public servants.

74. No suit shall lie against any public servant for anything done by him in good faith under this Act.

Indemnity for acts done in good faith.

75. Except with the permission in writing of the Local Government, no Forest-officer shall, as principal or agent, trade in timber or other forest-produce, or be or become interested in any lease of any forest or in any contract for working any forest, whether in or outside British India.

Forest-officers not to trade.

CHAPTER XII.

SUBSIDIARY RULES.

76. The Local Government may make rules—

- (a) to prescribe and limit the powers and duties of any Forest-officer under this Act;
- (b) to regulate the rewards to be paid to officers and informers out of the proceeds of fines and confiscation under this Act;
- (c) for the preservation, reproduction and disposal of trees and timber belonging to Government, but grown on lands belonging to or in the occupation of private persons; and
- (d) generally, to carry out the provisions of this Act.

Additional powers to make rules.

77. Any person contravening any rule under this Act, for the contravention of which no special penalty is provided, shall be punishable with imprisonment for a term which may extend to one month, or fine which may extend to five hundred rupees, or both.

Penalties for breach of rules.

(Chapter XII.—Subsidiary Rules. Chapter XIII.—Miscellaneous.)

78. All rules made by the Local Government under this Act shall be published in the local official Gazette, and shall thereupon, so far as they are consistent with this Act, have effect as if enacted therein.

Rules when to have force of law.

CHAPTER XIII.

MISCELLANEOUS.

79. (1) Every person who exercises any right in a reserved or protected forest, or who is permitted to take any forest-produce from, or to cut and remove timber or to pasture cattle in, such forest, and every person who is employed by any such person in such forest, and

Persons bound to assist Forest officers and Police-officers.

every person in any village contiguous to such forest who is employed by the Government, or who receives emoluments from the Government for services to be performed to the community,

shall be bound to furnish without unnecessary delay to the nearest Forest-officer or Police-officer any information he may possess respecting the commission of, or intention to commit, any forest-offence, and shall forthwith take steps, whether so required by any Forest-officer or Police-officer or not,—

- (a) to extinguish any forest fire in such forest of which he has knowledge or information;
 - (b) to prevent by any lawful means in his power any fire in the vicinity of such forest of which he has knowledge or information from spreading to such forest,
- and shall assist any Forest-officer or Police-officer demanding his aid—
- (c) in preventing the commission in such forest of any forest-offence; and
 - (d) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.

(2) Any person who, being bound so to do, without lawful excuse (the burden of proving which shall lie upon such person) fails—

- (a) to furnish without unnecessary delay to the nearest Forest-officer or Police-officer any information required by sub-section (1);
- (b) to take steps as required by sub-section (1) to extinguish any forest fire in a reserved or protected forest;
- (c) to prevent, as required by sub-section (1), any fire in the vicinity of such forest from spreading to such forest; or
- (d) to assist any Forest-officer or Police-officer demanding his aid in preventing the commission in such forest of any forest-offence, or, when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender;

(Chapter XIII.—Miscellaneous.)

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

80. (1) If the Government and any person be jointly interested in any forest or waste-land, or in the whole or any part of the produce thereof, the Local Government may either—

Management of forests the joint property of Government and other persons.

(a) undertake the management of such forest, waste-land or produce, accounting to such person for his interest in the same; or

(b) issue such regulations for the management of the forest, waste-land or produce by the person so jointly interested as it deems necessary for the management thereof and the interests of all parties therein.

(2) When the Local Government undertakes under clause (a) of sub-section (1) the management of any forest, waste-land or produce, it may, by notification in the local official Gazette, declare that any of the provisions contained in Chapters II and IV shall apply to such forest, waste-land or produce, and thereupon such provisions shall apply accordingly.

81. If any person be entitled to a share in the produce of any forest which is the property of Government or over which the Government has proprietary rights or to any part of the forest-produce of which the Government is entitled, upon the condition of duly performing any service connected with such forest, such share shall be liable to confiscation in the event of the fact being established to the satisfaction of the Local Government that such service is no longer so performed:

Failure to perform service for which a share in produce of Government forest is enjoyed.

Provided that no such share shall be confiscated until the person entitled thereto, and the evidence, if any, which he may produce in proof of the due performance of such service, have been heard by an officer duly appointed in that behalf by the Local Government.

82. All money payable to the Government under this Act, or under any rule made under this Act, or on account of the price of any forest-produce, or of expenses incurred in the execution of this Act in respect of such produce, may, if not paid when due, be recovered under the law for the time being in force as if it were an arrear of land-revenue.

Recovery of money due to Government.

83. (1) When any such money is payable for or in respect of any forest-produce, the amount thereof shall be deemed to be a first charge on such produce, and such produce may be taken possession of by a Forest-officer until such amount has been paid.

Lien on forest-produce for such money.

(2) If such amount is not paid when due, the Forest-officer may sell such produce by public auction, and the proceeds of the sale shall be applied first in discharging such amount.

(3) The surplus, if any, if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to his majesty.

(Chapter XIII.—Miscellaneous. The Schedule.)

Land required under this Act to be deemed to be needed for a public purpose under the Land Acquisition Act, 1894.

84. Whenever it appears to the Local Government that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of section 4 of the Land Acquisition Act, 1894.

Recovery of penalties due under bond.

85. When any person, in accordance with any provision of this Act, or in compliance with any rule made thereunder, binds himself by any bond or instrument to perform any duty or act, or covenants by any bond or instrument that he, or that he and his servants and agents will abstain from any act, the whole sum mentioned in such bond or instrument as the amount to be paid in case of a breach of the conditions thereof may, notwithstanding anything in section 74 of the Indian Contract Act, 1872, be recovered from him in case of such breach as if it were an arrear of land-revenue.

Repeals.

The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof.

THE SCHEDULE.

(See section 86.)

ENACTMENTS REPEALED.

	No.	Short title.	Extent of repeal.
1		3	4
1878	VII	The Indian Forest Act, 1878	So much as has not already been repealed.
1890	V	The Forest Act, 1890 ..	Ditto.
1891	XII	The Amending Act, 1891.	So much of Part I of Schedule II as relates to the Indian Forest Act, 1878.
1901	V	The Indian Forest (Amendment) Act, 1901.	So much as has not already been repealed.
1911	XV	The Indian Forest (Amendment) Act, 1911.	Ditto.
1914	X	The Repealing and Amending Act, 1914.	So much of the Second Schedule as relates to the Indian Forest Act, 1878, the Indian Forest Act, 1890, and the Indian Forest (Amendment) Act, 1901.
1918	I	The Indian Forest (Amendment) Act, 1918.	The whole.
1920	XXXVIII	The Devolution Act, 1920..	So much of Schedule I, Part I, as relates to the Indian Forest Act, 1878.

PUNJAB FOREST (SALE OF TIMBER) ACT, 1913.

CONTENTS.

SECTIONS.

1. Short title, extent and commencement.
2. Meaning of terms.
3. Power to make rules regulating sale of timber and the establishment of sale depôts.
4. Application of Chapter X of Indian Forest Act.
5. Indemnity for acts done in good faith.

**PUNJAB FOREST (SALE OF TIMBER)
ACT, No. III OF 1913.**

PASSED BY THE LIEUTENANT-GOVERNOR OF THE PUNJAB IN COUNCIL.

(Received the assent of His Honour the Lieutenant-Governor on the 12th February, 1913, and that of His Excellency the Viceroy and Governor-General on the 6th March, 1913, the Governor-General's assent was first published in the " Punjab Government Gazette " of 21st March, 1913.)

WHEREAS it is expedient to provide for the control of the sale of timber and the establishment of sale depôts for such timber in the Punjab;

It is hereby enacted as follows:—

1. This Act may be called the Punjab Forest (Sale of Timber) Act, 1913. Short title, extent and commencement.

It shall extend to such local areas as the Local Government may by notification in the local official Gazette direct; and it shall come into force in each of such areas on such day as the Local Government in like manner directs in this behalf.

VII of 1878.

2. In this Act all expressions have the meaning assigned to them in the *Indian Forest Act, 1878. Meaning of terms.

Cf. section 41, Act VII of 1878.

3. (1) The Local Government may, by notification in the local official Gazette, make rules to regulate the sale of timber and the establishment of sale depôts for such timber. Power to make rules regulating sale of timber and the establishment of sale depôts.

Such rules may among other matters—

- (a) prescribe the classes of timber to which the rules shall apply;
- (b) define what shall be deemed to be a sale depôt;
- (c) provide for the establishment, registration, regulation and inspection of sale depôts, and the levy of fees for registration; prescribe the period for which registration shall hold good and the conditions under which timber may be brought to, stored at, sold at, and removed from sale depôts; and prohibit the sale of timber at or the establishment or maintenance of unregistered sale depôts;
- (d) regulate the use of sale depôt marks and the registration of such marks; prescribe the time for which registration shall hold good; and provide for the levy of fees for registration;
- (e) prescribe the registers to be maintained at sale depôts, and provide for the production of such registers before and for their examination by any Forest or

* See now the Indian Forest Act, 1927 (XVI of 1927).

Police-officer authorized in this behalf by the Divisional Forest Officer or by the District Superintendent of Police, respectively;

(f) prescribe as penalties for the infringement of any rule made under this section imprisonment which may extend to six months or fine which may extend to Rs. 500 or both. Double penalties may be inflicted where the offence is committed after sunset and before sunrise, or after preparation for resistance to lawful authority, or if the offender has been previously convicted of a like offence. *Cf. section 42, Act VI of 1878.*

(2) All rules made under sub-section (1) shall be so made after previous publication in the Gazette.

Application
of Chapter X
of Indian
Forest Act.

4. The provisions of Chapter X of the Indian Forest Act, 1878,* with the exception of section 67, shall apply so far as may be to any infringement of the rules made under this Act as if such infringement were a forest-offence under the Indian Forest Act.

India Act VI
of 1878.

Indemnity
for acts done
in good
faith.

5. No suit shall lie against any public servant for anything done by him in good faith under this Act.

* See now the Indian Forest Act, 1927 (XVI of 1927), Chapter IX, with the exception of section 58.

**THE PUNJAB LAND PRESERVATION (CHOS)
ACT, 1900.**

CONTENTS.

PRELIMINARY.

SECTIONS.

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GENERAL DEFINITIONS.

2. Definitions.

NOTIFICATION AND REGULATION OF AREAS.

3. Notification of areas.
4. Power to regulate, restrict or prohibit, by general or special order, within notified areas, certain matters.
5. Power, in certain cases, to regulate, restrict or prohibit, by special order, within notified areas, certain further matters.
6. Necessity for regulation, restriction or prohibition to be recited in the order under section 4 or 5. Publication of order.
7. Proclamation of regulations, restrictions and prohibitions and admission of claims for compensation for rights which are restricted or extinguished.

CONTROL OVER THE BEDS OF CHOS.

8. Action when Local Government considers it desirable to take measures to regulate the beds of chos. Vesting of such beds in the Government.
9. Effect of notification to suspend or extinguish private rights in the area notified under section 8.
10. Power of Deputy Commissioner to delimit the bed and to decide what constitutes such bed. Power to take possession of bed when vested in the Government.
11. Bar of compensation for acts done under sections 8, 9, or 10.
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POWER TO ENTER UPON AND DELIMIT NOTIFIED AREAS AND BEDS.

13. Power to enter upon, survey and demarcate local areas notified under section 3 or section 8.

INQUIRY INTO CLAIMS AND AWARD OF COMPENSATION.

14. Inquiries into claims and awards thereupon.
15. Method of awarding compensation and effect of such award.

PROCEDURE, RECORDS AND APPEAL.

SECTIONS.

16. Record-of-rights in respect of notified areas.
17. Mode of proclaiming notifications and of serving notices, orders and processes, issued under the Act.
18. Appeal, review and revision.
PENALTIES, BAR OF SUITS AND RULES.
19. Penalty for offences.
20. Application of provisions of Act VII of 1878
21. Bar of suits.
22. Power to make rules.

PUNJAB LAND PRESERVATION (CHOS) ACT
No. II OF 1900.

PASSED BY THE LIEUTENANT-GOVERNOR OF THE PUNJAB IN COUNCIL.
(Received the assent of His Honour the Lieutenant-Governor on the 28th August, 1900, and that of His Excellency the Viceroy and Governor-General on the 10th October, 1900; the Governor-General's assent was first published in the "Punjab Government Gazette" of the 15th November, 1909.)

As amended by—

PUNJAB ACT IV OF 1905.

PUNJAB ACT VII OF 1926.

PUNJAB ACT VIII OF 1926.

AN ACT TO PROVIDE FOR THE BETTER PRESERVATION
AND PROTECTION OF CERTAIN PORTIONS OF THE
TERRITORIES OF THE PUNJAB SITUATE WITHIN
OR ADJACENT TO THE SIWALIK MOUNTAIN
RANGE.

WHEREAS it is expedient to provide for the better preservation and protection of certain portions of the territories of the Punjab situate within or adjacent to the *Siwalik* mountain range or affected or liable to be affected by the debodement of forests within that range, or by the action of streams and torrents, such as are commonly called *chos*, flowing through or from it;

It is hereby enacted as follows:—

PRELIMINARY.

1. (1) This Act may be called the Punjab Land Preservation (*Chos*) Act, 1900, and
- (2) It shall come into force at once.

Short title
and com-
mencement.

GENERAL DEFINITIONS.

2. In this Act, unless a different intention appears from the subject or context,—

(a) the expression "land" means land within any local area preserved and protected or otherwise dealt with in manner in this Act provided, and includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth; Definitions.

(b) the expression "*cho*" means a stream or torrent flowing through or from the *Siwalik* mountain range within the Punjab;

(c) the expressions "tree," "timber," "forest-produce" and "cattle," respectively, shall have the meanings severally assigned thereto in section 2 of the Indian Forest Act, 1878;*

VII of 1878.

* See now the Indian Forest Act, 1927 (XVI of 1927), section 2.

- (d) the expression " person interested " includes all persons claiming any interest in compensation to be made on account of any measures taken under this Act; and
- (e) the expression " Deputy Commissioner " includes any officer or officers at any time specially appointed by the Local Government to perform the functions of a Deputy Commissioner under this Act.

NOTIFICATION AND REGULATION OF AREAS.

Notification of areas.

3. Whenever it appears to the Local Government that it is desirable to provide for the better preservation and protection of any local area, situate within or adjacent to the *Sivalik* Mountain range or affected or liable to be affected by the debodisement of forests in that range or by the action of *chos*, such Government may, by notification, make a direction accordingly.

Power to regulate, restrict or prohibit, by general or special order, within notified areas, certain matters.

4. In respect of areas notified under section 3 generally, or the whole or any part of any such area, the Local Government may, by general or special order, temporarily regulate, restrict or prohibit—

Punjab Act VII of 1926.

- (a) the clearing or breaking up or cultivating of land not ordinarily under cultivation prior to the publication of the notification under section 3;
- (b) the quarrying of stone, or the burning of lime, at places where such stone or lime had not ordinarily been so quarried or burnt prior to the publication of the notification under section 3;
- (c) the cutting of trees or timber, or the collection or removal or subjection to any manufacturing process, otherwise than as described in clause (b) of this subsection, of any forest-produce other than grass, save for *bonâ fide* domestic or agricultural purposes;
- (d) the setting on fire of trees, timber or forest-produce;
- (e) the admission, herding, pasturing or retention of sheep or goats;
- (f) the examination of forest-produce passing out of any such area; and
- (g) the granting of permits to the inhabitants of towns and villages situate within the limits or in the vicinity of any such area, to take any tree, timber or forest-produce for their own use therefrom, or to pasture sheep or goats or to cultivate or erect buildings therein and the production and return of such permits by such persons.

Punjab Act
VII of 1926.

5. In respect of any specified village or villages, or part or parts thereof, comprised within the limits of any area notified under section 3, the Local Government may, by special order, temporarily regulate, restrict or prohibit—

- (a) the cultivating of any land ordinarily under cultivation prior to the publication of the notification under section 3;
- (b) the quarrying of any stone or the burning of any lime at places where such stone or lime had ordinarily been so quarried or burnt prior to the publication of the notification under section 3;
- (c) the cutting of trees or timber, or the collection or removal or subjection to any manufacturing process, otherwise than as described in clause (b) of this subsection, of any forest-produce* [for any purposes]; and
- (d) the admission, herding, pasturing or retention of cattle generally, other than sheep and goats, or of any class or description of such cattle.

Power, in certain cases, to regulate, restrict or prohibit, by special order, within notified areas, certain further matters.

6. Every order made under section 4 or section 5 shall be published in the Gazette and shall set forth that the Local Government is satisfied, after due inquiry, that the regulations, restrictions or prohibitions contained in the order are necessary for the purpose of giving effect to the provisions of this Act.

Necessity for regulation, restriction or prohibition to be recited in the order under section 4 or 5. Publication of order.

7. (1) When, in respect of any local area, a notification has been published under section 3, and—

- (a) upon such publication any general order made under section 4 becomes applicable to such area, or
- (b) any special order under section 4 or section 5, is made in respect of such area,

Proclamation of regulations, restrictions and prohibitions and admission of claims for compensation for rights which are restricted or extinguished.

Punjab Act
VII of 1926.Punjab Act
VII of 1926.

the Deputy Commissioner shall cause public notice of the provisions of such general or special order to be given, and, if the provisions of any such order restrict or *prohibit the exercise of* any existing rights, shall also publish, in the language of the country and in every town and village the boundaries of which include any portion of the area within or over which *the exercise of any such rights is so restricted or prohibited* a proclamation stating the regulations, restrictions and prohibitions which have been imposed, by any such order, within the limits of such area or in any part or parts thereof; fixing a period of not less than three months from the date of such proclamation, and requiring every person claiming any compensation in respect of any right so res-

* These words were substituted for the words "for *bona fide* domestic or agricultural purposes" by the Punjab Land Preservation (Chos) Amendment Act, 1905 (IV of 1905).

stricted or prohibited, within such period, either to present to such officer a written notice specifying, or to appear before him and state, the nature and extent of such right and the amount and particulars of the compensation (if any) claimed in respect thereof.

(2) Any claim not preferred within the time fixed in the proclamation made under sub-section (1), shall be rejected :

Provided that, with the previous sanction of the Commissioner, the Deputy Commissioner may admit any such claim as if it had been made within such period.

CONTROL OVER THE BEDS OF CHOS.

Action when Local Government considers it desirable to take measures to regulate the beds of chos. Vesting of such heads in the Government.

8. (1) Whenever it appears to the Local Government that it is desirable that measures should be taken in the bed of any *cho* for the purpose of—

- (a) regulating the flow of water within and preventing the widening or extension of such bed, or of
- (b) reclaiming or protecting any land situate within the limits of such bed ;

such Government may, either proceed at once in manner in sub-section (2) provided, or, in the first instance, by notification specifying the nature and extent of the measures to be taken and the locality in and the time within which such measures are to be so taken, require all persons possessing proprietary or occupancy rights in land situate in such locality to themselves carry out the measures specified in such notification accordingly.

(2) If the whole or any part of the bed of any *cho* be unclaimed, or, if, in the opinion of the Local Government, the measures deemed necessary under sub-section (1) are of such a character, in regard to extent and cost, that the interference of the Local Government is absolutely necessary, or in the event of the owner or occupier of any portion of the bed of any *cho* failing to comply with the requirements of any notification issued under sub-section (1), such Government may, by notification, declare that the whole or any part of the area comprised within the limits of the bed of any *cho* shall vest in the Government for such period and subject to such conditions (if any) as may be specified in the notification :

Punjab Act
VIII of 1926.

Provided that no such declaration shall be made in respect of or shall affect any land included within the limits of the bed of any such *cho*, which, at the date of the publication of the notification making such declaration, is cultivated or culturable, or yields any produce of substantial value.

(3) When the owners or occupiers of such locality are unable to agree among themselves regarding the carrying out of such measures, the decision of those paying the larger amount of land revenue shall be held to be binding on all.

(4) The Local Government may from time to time, by like notification, extend the period during which any such area shall remain vested in the Government.

9. Upon the making of any declaration under sub-section (2) of section 8, all private rights of whatever kind existing in or relating to any land comprised within the area specified in the notification containing such declaration at the time of the publication thereof, shall

Effect of notification to suspend or extinguish private rights in the area notified under section 8.

Punjab Act VIII of 1926.

“ be suspended for the period specified in the declaration and for such further period (if any) to which such period may at any time be extended;”

Provided that, as far as circumstances admit, such rights of way and water shall be reserved, in respect of every such area, as may be necessary to meet the reasonable requirements and convenience of the persons (if any) who, at the time of the making of such declaration, possessed any such rights over such area.

10. (1) The Deputy Commissioner shall, for the purposes of every notification issued under sub-section (2) of section 8, fix the limits of the area comprised within the bed of the *cha* to which such notification is to apply.

Power of Deputy Commissioner to delimit the bed and to decide what constitutes such bed. Power to take possession of bed when vested in the Government.

(2) Upon the publication of a notification containing any declaration under sub-section (2) of section 8, it shall be lawful for the Deputy Commissioner to—

- (a) take possession of the area specified in such declaration;
- (b) eject all persons therefrom; and to
- (c) deal with such area, while it remains vested in the Government, as if it were the absolute property of Government.

11. No person shall be entitled to any compensation for anything at any time done, in good faith, in exercise of any power conferred by section 8, section 9 or section 10.

Bar of compensation for acts done under section 8, 9 or 10.

12. Cancelled by Punjab Act VIII of 1926, section 4.

POWER TO ENTER UPON AND DELIMIT NOTIFIED AREAS AND BEDS.

13. It shall be lawful for the Deputy Commissioner and for his subordinate officers, servants, care-takers and workmen, from time to time, as occasion may require—

Power to enter upon, survey and demarcate local areas notified under section 3 or section 8.

- (a) to enter upon and survey any land comprised within any local area in regard to which any notification has been issued under section 3 or section 8;
- (b) to erect bench-marks on and to delimit and demarcate the boundaries of any such local area; and
- (c) to do all other acts and things which may be necessary in order adequately to preserve or protect any land or to give effect to all or any of the provisions of this Act:

Provided that reasonable compensation to be assessed and determined in the manner in this Act provided, shall be made in respect of any damage or injury caused to the property or rights of any person in carrying out any operations under the provisions of this section, but no such compensation shall be payable in respect of anything done under the said provisions within the limits of any local area notified under section 8.

INQUIRY INTO CLAIMS AND AWARD OF COMPENSATION.

Inquiries into claims and awards thereupon.

14. (1) The Deputy Commissioner shall—

- (a) fix a date for inquiry into all claims made under section 7 and may, in his discretion, from time to time, adjourn the inquiry to a date to be fixed by him; Punjab Act VIII of 192
- (b) record in writing all statements made under section 7;
- (c) inquire into all claims duly preferred under section 7; Punjab Act VIII of 192
and
- (d) make an award upon each such claim, setting out therein the nature and extent of the right claimed, the person or persons making such claim, the extent (if any) to which, and the person or persons in whose favour, the right claimed is established, the extent to which it is to be restricted or *prohibited* and the nature and amount of the compensation (if any) awarded. Punjab Act VIII of 192

(2) For the purposes of every such enquiry the Deputy Commissioner may exercise all or any of the powers of a Civil Court in the trial of suits under the Code of Civil Procedure.* XIV of 1882

(3) The Deputy Commissioner shall announce his award to such persons interested, or their representatives, as are present, and shall record the acceptance of those who accept it. To such as are not present, the Deputy Commissioner shall cause immediate notice of his award to be given.

Method of awarding compensation and effect of such award.

15. (1) In determining the amount of compensation, the Deputy Commissioner shall be guided, so far as may be, by the provisions of sections 23 and 24 of the Land Acquisition Act, 1894, I of 1894. and, as to matters which cannot be dealt with under those provisions by what is just and reasonable in the circumstances of each case.

(2) The Deputy Commissioner may, with the sanction of the Local Government and the consent of the person entitled, instead of money, award compensation in land or by reduction in revenue or in any other form.

(3) If, in any case, the exercise of any right is prohibited for a time only, compensation shall be awarded only in respect of the period during which the exercise of such right is so prohibited.

(4) Repealed by section 6 of Punjab Act VIII of 1926.

* See now Act V of 1908.

PROCEDURE, RECORDS AND APPEALS.

16. (1) For every area, notified under section 3 or section 8, the Deputy Commissioner shall prepare a record setting forth the nature, description, local situation and extent of all rights mentioned in section 4 and section 5—

(a) existing within such area at the time of the publication of the notification relating thereto under section 3 or section 8;

(b) regulated, restricted, or *prohibited* by any order under section 4 or section 5.

(2) When any award is made under section 14, its effect upon any rights shall also be recorded therein.

Punjab Act
VIII of 1926.

17. (1) Upon the publication of a notification issued under any of the provisions of this Act, the Deputy Commissioner shall cause public notice of the substance thereof to be given at convenient places in the locality to which such notification relates.

XVII of
1887.

(2) The procedure prescribed in sections 20, 21 and 22 of the Punjab Land Revenue Act, 1887, shall be followed, as far as may be, in proceedings under this Act.

18. Every order passed and every award made by a Deputy Commissioner under this Act, shall, for the purposes of appeal, review and revision, respectively, be deemed to be the order of a Collector within the meaning of sections 13, 14, 15 and 16 of the Punjab Land Revenue Act, 1887:

XVII of
1887.

Provided that nothing in this Act contained shall be deemed to exclude the jurisdiction of any Civil Court to decide any dispute arising between the persons interested in any compensation awarded as to the apportionment or distribution thereof amongst such persons or any of them.

PENALTIES, BAR OF SUITS AND RULES.

19. Any person who, within the limits of any local area notified under section 3, commits any breach of any regulation made, or restriction or prohibition imposed under section 4 or section 5, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

20. The provisions of sections 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 63 (excluding the last sentence), 64, 65, 66, 67 and 72 of the Indian Forests Act, 1878,* shall, so far as applicable, be read as part of this Act, and, for the purposes of those provisions, every offence punishable under section 19 shall be deemed to be a "forest-offence," and every officer employed in the management of any area notified under section 3 or section 8, as care-taker or otherwise, shall be deemed to be a Forest-officer.

VII of 1878.

* See how sections 52, 54, 55, 56, 57, 58, 59, 60, 61, 62, 64 (excluding the last sentence), 66, 67, 68 and 73 of the Indian Forest Act, 1927 (XVI of 1927).

Bar of suits.

21. No suit shall lie against the Secretary of State for India in Council, or the Government, for anything done under this Act, and no suit shall lie against any public servant for anything done, or purporting to have been done, by him, in good faith, under this Act.

Power to make rules.

22. (1) The Local Government may make rules, consistent with this Act,—

(a) regulating the procedure to be observed in any inquiry or proceeding under this Act; and

(b) generally for the purpose of carrying into effect all or any of the provisions of this Act.

(2) All rules made under this section shall be published in the Gazette.

**THE NORTHERN INDIA CANAL AND DRAINAGE
ACT, 1873.**

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ACT No. VIII OF 1873.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor-General on the
11th February 1873.)*

As amended by—

ACT XII OF 1873;

ACT XVI OF 1874;

ACT XVI OF 1887;

ACT XII OF 1891;

ACT XVI OF 1899;

ACT IV OF 1914;

ACT XXXVIII OF 1920.

AN ACT TO REGULATE IRRIGATION, NAVIGATION AND DRAINAGE IN NORTHERN INDIA.

WHEREAS, throughout the territories to which this Act extends, Preamble.
the Government is entitled to use and control for public purposes the water of all rivers and streams flowing in natural channels, and of all lakes and other natural collections of still water; and whereas it is expedient to amend the law relating to irrigation, navigation and drainage in the said territories; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

1. This Act may be called "The Northern India Canal and Drainage Act, 1873." Short title.

It extends to the territories for the time being respectively Local extent.
under the Government of the Lieutenant-Governors of the North-Western Provinces and the Punjab, and under the administration of the Chief Commissioners of Oudh and the Central Provinces; and applies to all lands, whether permanently settled, temporarily settled, or free from revenue.

XVI of 1874. (Note.—The third paragraph of section 1 has been repealed by Act XVI of 1874.)

2. (Repealed by the Repealing Act, 1873 (XII of 1873).)

3. In this Act, unless there be something repugnant in the Interpre-
subject or context,— tation clause.

(1) "Canal" includes— "Canal."

(a) all canals, channels and reservoirs constructed, maintained or controlled by Government for the supply or storage of water;

- (b) all works, embankments, structures, supply and escape-channels connected with such canals, channels or reservoirs;
- (c) all water-courses as defined in the second clause of this section;
- (d) any part of a river, stream, lake or natural collection of water, or natural drainage-channel, to which the Local Government has applied the provisions of Part II of this Act;

“ Water-course.”

(2) “ Water-course ” means any channel which is supplied with water from a canal, but which is not maintained at the cost of Government, and all subsidiary works belonging to any such channel;

“ Drainage-work.”

(3) “ Drainage-work ” includes escape-channels from a canal, dams, weirs, embankments, sluices, groins and other works for the protection of lands from flood or from erosion, formed or maintained by the Government under the provisions of Part VII of this Act, but does not include works for the removal of sewage from towns;

“ Vessel.”

(4) “ Vessel ” includes boats, rafts, timber and other floating bodies;

“ Commissioner.”

(5) “ Commissioner ” means a Commissioner of a Division, and includes any officer appointed under this Act to exercise all or any of the powers of a Commissioner;

“ Collector.”

(6) “ Collector ” means the head Revenue Officer of a district, and includes a Deputy Commissioner or other officer appointed under this Act to exercise all or any of the powers of a Collector;

“ Canal Officer.”

(7) “ Canal Officer ” means an officer appointed under this Act to exercise control or jurisdiction over a canal or any part thereof;

“ Superintending Canal Officer ” means an officer exercising general control over a canal or portion of a canal;

“ Divisional Canal Officer ” means an officer exercising control over a Division of a canal;

“ Sub-Divisional Canal Officer ” means an officer exercising control over a sub-division of a canal.

“ District.”

(8) “ District ” means a district as fixed for revenue purposes.

Power to appoint officers.

4. The Local Government may from time to time declare, by notification in the official Gazette, the officers by whom, and the local limits within which, all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed.

All officers mentioned in section three, clause (7), shall be respectively subject to the orders of such officers as the Local Government from time to time directs.

PART II.

OF THE APPLICATION OF WATER FOR PUBLIC PURPOSES.

5. Whenever it appears expedient to the Local Government that the water of any river or stream flowing in a natural channel, or of any lake or other natural collection of still water, should be applied or used by the Government for the purpose of any existing or projected canal or drainage work, the Local Government may, by notification in the official Gazette, declare that the said water will be so applied or used after a day to be named in the said notification, not being earlier than three months from the date thereof.

Notification to issue when water-supply is to be applied for public purposes.

6. At any time after the day so named, any Canal Officer, acting under the orders of the Local Government in this behalf, may enter on any land and remove any obstructions, and may close any channels, and do any other thing necessary for such application or use of the said water.

Powers of Canal Officer.

7. As soon as is practicable after the issue of such notification, the Collector shall cause public notice to be given at convenient places, stating that the Government intends to apply or use the said water as aforesaid, and that claims for compensation in respect of the matters mentioned in section eight may be made before him.

Notice as to claims for compensation.

8. No compensation shall be awarded for any damage caused by—

Damage for which compensation shall not be awarded.

- (a) stoppage or diminution of percolation or floods;
- (b) deterioration of climate or soil;
- (c) stoppage of navigation, or of the means of drifting timber or watering cattle;
- (d) displacement of labour;

But compensation may be awarded in respect of any of the following matters:—

Matters in respect of which compensation may be awarded.

- (e) stoppage or diminution of supply of water through any natural channel to any defined artificial channel, whether above or under ground, in use at the date of the said notification;
- (f) stoppage or diminution of supply of water to any work erected for purposes of profit, on any channel, whether natural or artificial, in use at the date of the said notification;
- (g) stoppage or diminution of supply of water through any natural channel which has been used for purposes of irrigation within the five years next before the date of the said notification;
- (h) damage done in respect of any right to a water-course or the use of any water to which any person is entitled under the Indian Limitation Act, 1877, Part IV.*

- (c) any other substantial damage, not falling under any of the above clauses (a), (b), (c), or (d), and caused by the exercise of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation.

In determining the amount of such compensation, regard shall be had to the diminution in the market-value, at the time of awarding compensation, of the property in respect of which compensation is claimed; and where such market-value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property caused by the exercise of the powers conferred by this Act.

No right to any such supply of water as is referred to in clause (e), (f) or (g) of this section, in respect of a work or channel not in use at the date of the notification, shall be acquired as against the Government, except by grant or under the Indian Limitation Act, XV of 1877, Part IV.*

And no right to any of the advantages referred to in clauses (a), (b) and (c) of this section shall be acquired, as against the Government, under the same Part.

Limitation of claims.

9. No claim for compensation for any such stoppage, diminution or damage shall be made after the expiration of one year from such stoppage, diminution or damage, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

Enquiry into claims and amount of compensation.

10. The Collector shall proceed to enquire into any such claim, and to determine the amount of compensation, if any, which should be given to the claimant; and sections nine to twelve (inclusive), fourteen and fifteen, eighteen to twenty-three (inclusive), twenty-six to forty (inclusive), fifty-one, fifty-seven, fifty-eight and fifty-nine of the Land Acquisition Act, 1870,† shall apply to such enquiries: X of 187

Provided that, instead of the last clause of the said section twenty-six the following shall be read: "The provisions of this section and of section eight of the Northern India Canal and Drainage Act, 1873, shall be read to every assessor in a language VIII of 1 which he understands, before he gives his opinion as to the amount of compensation to be awarded."

Abatement of rent on interruption of water-supply.

11. Every tenant holding under an unexpired lease, or having a right of occupancy, who is in occupation of any land at the time when any stoppage or diminution of water-supply, in respect of which compensation is allowed under section eight, takes place, may claim an abatement of the rent previously payable by him for the said land, on the ground that the interruption reduces the value of the holding.

* See now the Indian Limitation Act, 1908 (IX of 1908).

† See now the Land Acquisition Act, 1894 (I of 1894).

12. If a water-supply increasing the value of such holding is afterwards restored to the said land, the rent of the tenant may be enhanced, in respect of the increased value of such land due to the restored water-supply, to an amount not exceeding that at which it stood immediately before the abatement. Enhancement of rent on restoration of water-supply.

Such enhancement shall be on account only of the restored water-supply, and shall not affect the liability of the tenant to enhancement of rent on any other grounds.

13. All sums of money payable for compensation under this Part shall become due three months after the claim for such compensation is made in respect of the stoppage, diminution or damage complained of; Compensation when due.

and simple interest at the rate of six per cent. per annum shall be allowed on any such sum remaining unpaid after the said three months, except where the non-payment of such sum is caused by the wilful neglect or refusal of the claimant to receive the same. Interest.

PART III.

OF THE CONSTRUCTION AND MAINTENANCE OF WORKS.

14. Any Canal Officer or other person acting under the general or special order of a Canal Officer, Power to enter and survey, etc.

may enter upon any lands adjacent to any canal, or through which any canal is proposed to be made, and undertake surveys or levels thereon;

and dig and bore into the sub-soil;

and make and set up suitable land-marks, level-marks, and water gauges;

and do all other acts necessary for the proper prosecution of any enquiry relating to any existing or projected canal under the charge of the said Canal Officer;

and, where otherwise such enquiry cannot be completed, such officer or other person may cut down and clear away any part of any standing crop, fence or jungle; Power to clear land.

and may also enter upon any land, building or water-course on account of which any water-rate is chargeable, for the purpose of inspecting or regulating the use of the water supplied or of measuring the lands irrigated thereby or chargeable with a water-rate; and of doing all things necessary for the proper regulation and management of such canal: Power to inspect and regulate water-supply.

Provided that, if such Canal Officer or person proposes to enter into any building or enclosed court or garden attached to a dwelling house not supplied with water flowing from any canal, he shall previously give the occupier of such building, court or garden at least seven days' notice in writing of his intention to do so. Notice of intended entry into houses.

In every case of entry under this section, the Canal Officer shall, at the time of such entry, tender compensation for any damage which may be occasioned by any proceeding under this Compensation for damage caused by entry.

section; and in case of dispute as to the sufficiency of the amount so tendered, he shall forthwith refer the same for decision by the Collector, and such decision shall be final.

Power to enter for repairs and to prevent accidents.

15. In case of any accident happening or being apprehended to a canal, any Divisional Canal Officer or any person acting under his general or special orders in this behalf may enter upon any lands adjacent to such canal, and may execute all works which may be necessary for the purpose of repairing or preventing such accident.

Compensation for damage to land.

In every such case, such Canal Officer or person shall tender compensation to the proprietors or occupiers of the said lands for all damage done to the same. If such tender is not accepted, the Canal Officer shall refer the matter to the Collector, who shall proceed to award compensation for the damage as though the Local Government had directed the occupation of the lands under section forty-three of the Land Acquisition Act, 1870.*

X of 1870.

Application by persons desiring to use canal-water.

16. Any persons desiring to use the water of any canal, may apply in writing to the Divisional or Sub-Divisional Canal Officer of the Division or Sub-Division of the canal from which the water-course is to be supplied, requesting such officer to construct or improve a water-course at the cost of the applicants.

Contents of application.

The application shall state the works to be undertaken, their approximate estimated cost, or the amount which the applicants are willing to pay for the same, or whether they engage to pay the actual cost as settled by the Divisional Canal Officer, and how the payment is to be made.

Liability of applicants for cost of works.

When the assent of the Superintending Canal Officer is given to such application, all the applicants shall, after the application has been duly attested before the Collector, be jointly and severally liable for the cost of such works to the extent mentioned therein.

Recovery of amount due.

Any amount becoming due under the terms of such application, and not paid to the Divisional Canal Officer, or the person authorized by him to receive the same, on or before the date on which it becomes due, shall, on the demand of such officer, be recoverable by the Collector as if it were an arrear of land revenue.

Government to provide means of crossing canals.

17. There shall be provided, at the cost of Government, suitable means of crossing canals constructed or maintained at the cost of Government, at such places as the Local Government thinks necessary for the reasonable convenience of the inhabitants of the adjacent-lands.

On receiving a statement in writing, signed by not less than five of the owners of such lands, to the effect that suitable crossings have not been provided on any canal, the Collector shall cause enquiry to be made into the circumstances of the case, and if he thinks that the statement is established, he shall report his opinion

* See now the Land Acquisition Act, 1894 (I of 1894).

thereon for the consideration of the Local Government, and the Local Government shall cause such measures in reference thereto to be taken as it thinks proper.

18. The Divisional Canal Officer may issue an order to the persons using any water-course to construct suitable bridges, culverts or other works for the passage of the water of such water-course across any public road, canal or drainage-channel in use before the said water-course was made, or to repair any such works, before the said water-course was made, or to repair any such works.

Persons using water-course to construct works for passing water across roads, &c.

Such order shall specify a reasonable period within which such construction or repairs shall be completed;

and if, after the receipt of such order, the persons to whom it is addressed do not, within the said period, construct or repair such works to the satisfaction of the said Canal Officer, he may, with the previous approval of the Superintending Canal Officer, himself construct or repair the same;

If they fail, Canal Officer may construct.

and if the said persons do not, when so required, pay the cost of such construction or repairs as declared by the Divisional Canal Officer, the amount shall, on the demand of the Divisional Canal Officer, be recoverable from them by the Collector as if it were an arrear of land-revenue.

and recover cost.

19. If any person, jointly responsible with others for the construction or maintenance of a water-course, or jointly making use of a water-course with others, neglects or refuses to pay his share of the cost of such construction or maintenance, or to execute his share of any work necessary for such construction or maintenance, the Divisional or Sub-Divisional Canal Officer, on receiving an application in writing from any person injured by such neglect or refusal, shall serve notice on all the parties concerned that, on the expiration of a fortnight from the service he will investigate the case; and shall, on the expiration of that period, investigate the case accordingly, and make such order thereon as to him seems fit.

Adjustment of claims between persons jointly using water-course.

Such order shall be appealable to the Commissioner, whose order thereon shall be final.

Any sum directed by such order to be paid within a specified period may, if not paid within such period and if the order remains in force, be recovered by the Collector, from the person directed to pay the same, as if it were an arrear of land-revenue.

Recovery of amount found due.

20. Whenever application is made to a Divisional Canal Officer for a supply of water from a canal, and it appears to him expedient that such supply should be given and that it should be conveyed through some existing water-course, he shall give notice to the persons responsible for the maintenance of such water-course to show cause, on a day not less than fourteen days from the date of such notice, why the said supply should not be so conveyed; and, after making enquiry on such day, the Divisional Canal Officer

Supply of water through intervening water-course.

shall determine whether and on what conditions the said supply shall be conveyed through such water-course.

When such officer determines that a supply of canal-water may be conveyed through any water-course as aforesaid, his decision shall, when confirmed or modified by the Superintending Canal Officer, be binding on the applicant and also on the persons responsible for the maintenance of the said water-course.

Such applicant shall not be entitled to use such water-course until he has paid the expense of any alteration of such water-course necessary in order to his being supplied through it, and also such share of the first cost of such water-course as the Divisional or Superintending Canal Officer may determine.

Such applicant shall also be liable for his share of the cost of maintenance of such water-course so long as he uses it.

Application
for construction
of new
water-course.

21. Any person desiring the construction of a new water-course may apply in writing to the Divisional Canal Officer, stating—

- (1) that he has endeavoured unsuccessfully to acquire, from the owners of the land through which he desires such water-course to pass, a right to occupy so much of the land as will be needed for such water-course;
- (2) that he desires the said Canal Officer, in his behalf and at his cost, to do all things necessary for acquiring such right;
- (3) that he is able to defray all costs involved in acquiring such right and constructing such water-course.

Procedure of
Canal Officer
thereupon.

22. If the Divisional Canal Officer considers—

- (1) that the construction of such water-course is expedient and
- (2) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Divisional Canal Officer considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation which he considers likely to become due under section twenty-eight;

and, upon such deposit being made, he shall cause enquiry to be made into the most suitable alignment for the said water-course, and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof, and shall forthwith publish a notice in every village through which the water-course is proposed to be taken, that so much of such land as belongs to such village has been so marked out, and shall send a copy of such notice to the Collector of every district in which any part of such land is situate.

23. Any person desiring that an existing water-course should be transferred from its present owner to himself, may apply in writing to the Divisional Canal Officer, stating—

Application for transfer of existing water-course.

- (1) that he has endeavoured unsuccessfully to procure such transfer from the owner of such water-course;
- (2) that he desires the said Canal Officer, in his behalf and at his cost, to do all things necessary for procuring such transfer;
- (3) that he is able to defray the cost of such transfer.

If the Divisional Canal Officer considers—

- (a) that the said transfer is necessary for the better management of the irrigation from such water-course, and thereupon,
- (b) that the statements in the application are true,

Procedure

he shall call upon the applicant to make such deposit as the Divisional Canal Officer considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation that may become due under the provisions of section twenty-eight in respect of such transfer;

and, upon such deposit being made, he shall publish a notice of the application in every village, and shall send a copy of the notice to the Collector of every district, through which such water-course passes.

24. Within thirty days from the publication of a notice under section twenty-two or section twenty-three, as the case may be, any person interested in the land or water-course to which the notice refers may apply to the Collector by petition, stating his objection to the construction or transfer for which application has been made.

Objections to construction or transfer applied for.

The Collector may either reject the petition or may proceed to inquire into the validity of the objection, giving previous notice to the Divisional Canal Officer of the place and time at which such enquiry will be held.

The Collector shall record in writing all orders passed by him under this section and the grounds thereof.

25. If no such objection is made, or (where such objection is made) if the Collector over-rules it, he shall give notice to the Divisional Canal Officer to that effect, and shall proceed forthwith to place the said applicant in occupation of the land marked out or of the water-course to be transferred, as the case may be.

When applicant may be placed in occupation.

26. If the Collector considers any objection made as aforesaid to be valid, he shall inform the Divisional Canal Officer accordingly; and, if such officer sees fit, he may, in the case of an application under section twenty-one, alter the boundaries of the land so marked out, and may give fresh notice under section twenty-two; and the procedure hereinbefore provided shall be applicable to

Procedure when objection is held valid.

such notice; and the Collector shall thereupon proceed as before provided.

Procedure] when Canal Officer disagrees with Collector.

27. If the Canal Officer disagrees with the Collector, the matter shall be referred for decision to the Commissioner.

Such decision shall be final, and the Collector, if he is so directed by such decision, shall, subject to the provisions of section twenty-eight, cause the said applicant to be placed in occupation of the land so marked out or of the water-course to be transferred, as the case may be.

Expenses to be paid by applicant before receiving occupation.

28. No such applicant shall be placed in occupation of such land or water-course until he has paid to the person named by the Collector such amount as the Collector determines to be due as compensation for the land or water-course so occupied or transferred, and for any damage caused by the marking out or occupation of such land, together with all expenses incidental to such occupation or transfer.

Procedure in fixing compensation.

In determining the compensation to be made under this section, the Collector shall proceed under the provisions of the Land Acquisition Act, 1870,* but he may, if the person to be compensated so desires, award such compensation in the form of a rent-charge payable in respect of the land or water-course occupied or transferred. X of 1870.

Recovery of compensation and expenses.

If such compensation and expenses are not paid when demanded by the person entitled to receive the same, the amount may be recovered by the Collector as if it were an arrear of land-revenue, and shall, when recovered, be paid by him to the person entitled to receive the same.

Conditions binding on applicant placed in occupation.

29. When any such applicant is placed in occupation of land or of a water-course as aforesaid, the following rules and conditions shall be binding on him and his representative in interest:—

First.—All works necessary for the passage across such water-course, or water-courses, existing previous to its construction and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the neighbouring lands, shall be constructed by the applicant, and be maintained by him or his representative in interest to the satisfaction of the Divisional Canal Officer.

Second.—Land occupied for a water-course under the provisions of section twenty-two shall be used only for the purpose of such water-course.

Third.—The proposed water-course shall be completed to the satisfaction of the Divisional Canal Officer within one year after the applicant is placed in occupation of the land.

In cases in which land is occupied or a water-course is transferred on the terms of a rent-charge.

* See now the Land Acquisition Act, 1894 (I of 1894).

Fourth.—The applicant or his representative in interest shall, so long as he occupies such land or water-course, pay rent for the same at such rate and on such days as are determined by the Collector when the applicant is placed in occupation.

Fifth.—If the right to occupy the land cease owing to a breach of any of these rules, the liability to pay the said rent shall continue until the applicant or his representative in interest has restored the land to its original condition, or until he has paid, by way of compensation for any injury done to the said land, such amount and to such persons as the Collector determines.

Sixth.—The Collector may, on the application of the person entitled to receive such rent or compensation, determine the amount of rent due or assess the amount of such compensation; and if any such rent or compensation be not paid by the applicant or his representative in interest, the Collector may recover the amount, with interest thereon at the rate of six per cent. per annum from the date on which it became due, as if it were an arrear of land-revenue, and shall pay the same, when recovered, to the person to whom it is due.

If any of the rules and conditions prescribed by this section are not complied with,

or if any water-course constructed or transferred under this Act is disused for three years continuously,

the right of the applicant, or of his representative in interest, to occupy such land or water-course shall cease absolutely.

30. The procedure hereinbefore provided for the occupation of land for the construction of a water-course shall be applicable to the occupation of land for any extension or alteration of a water-course, and for the deposit of soil from water-course clearances.

Procedure applicable to occupation for extensions and alterations.

PART IV.

OF THE SUPPLY OF WATER.

31. In the absence of a written contract, or so far as any such contract does not extend, every supply of canal-water shall be deemed to be given at the rates and subject to the conditions prescribed by the rules to be made by the Local Government in respect thereof.

In absence of written contract water-supply to be subject to rules.

32. Such contracts and rules must be consistent with the following conditions:—

Conditions as to—

(a) The Divisional Canal Officer may not stop the supply of water to any water-course, or to any person, except in the following cases:—

power to stop water-supply.

- (1) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority, and with the previous sanction of the Local Government;

(2) whenever and so long as any water-course is not maintained in such proper customary repair as to prevent the wasteful escape of water therefrom;

(3) within periods fixed from time to time by the Divisional Canal Officer:

claims to compensation in case of failure or stoppage of supply;

(b) No claim shall be made against the Government for compensation in respect of loss caused by the failure or stoppage of the water in a canal, by reason of any cause beyond the control of the Government, or of any repairs, alterations or additions to the canal, or of any measures taken for regulating the proper flow of water, therein, or for maintaining the established course of irrigation which the Divisional Canal Officer considers necessary; but the person suffering such loss may claim such remission of the ordinary charges payable for the use of the water as is authorized by the Local Government:

claims on account of interruption from other causes;

(c) If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in the last preceding clause, the occupier or owner of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Collector may award to the petitioner reasonable compensation for such loss:

duration of supply

(d) When the water of a canal is supplied for the irrigation of a single crop, the permission to use such water shall be held to continue only until that crop comes to maturity and to apply only to that crop; but if it be supplied for irrigating two or more crops to be raised on the same land within the year, such permission shall be held to continue for one year from the commencement of the irrigation, and to apply to such crops only as are matured within that year:

sale or subletting of right to use canal-water;

(e) Unless with the permission of the Superintending Canal Officer, no person entitled to use the water of any canal, or any work, building or land appertaining to any canal, shall sell or sublet or otherwise transfer his right to such use: provided that the former part of this clause shall not apply to the use by a cultivating tenant of water supplied by the owner of a water-course for the irrigation of the land held by such tenant:

transfer, with land, of contracts for water.

But all contracts made between Government and the owner or occupier of any immovable property, as to the supply of canal-water to such property, shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such property takes place:

no right acquired by user.

(f) No right to the use of the water of a canal shall be, or be deemed to have been, acquired under the Indian Limitation Act, 1877, Part IV,* nor shall Government be bound to supply any person with water, except in accordance with the terms of a contract in writing. XV of 1877.

* See now the Indian Limitation Act, 1908 (IX of 1908).

PART V.

OF WATER-RATES.

33. If water supplied through a water-course be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified,

the person on whose land such water has flowed if such land has derived benefit therefrom,

or if such person cannot be identified, or if such land has not derived benefit therefrom, all the persons chargeable in respect of the water supplied through such water-course,

shall be liable, or jointly liable, as the case may be, to the charges made for such use.

34. If water supplied through a water-course be suffered to run to waste, and if, after enquiry by the Divisional Canal Officer, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such water-course shall be jointly liable for the charges made in respect of the water so wasted.

35. All charges for the unauthorized use or for waste of water may be recovered in addition to any penalties incurred on account of such use or waste.

All questions under section thirty-three or section thirty-four shall be decided by the Divisional Canal Officer, subject to an appeal to the Head Revenue Officer of the district, or such other appeal as may be provided under section seventy-five.

36. The rates to be charged for canal-water supplied for purposes of irrigation to the occupiers of land shall be determined by the rules to be made by the Local Government, and occupiers as accept the water shall pay for it accordingly.

A rate so charged shall be called the 'occupier's rate.'

XVI of 1899.

The rules hereinbefore referred to may prescribe and determine what persons or classes of persons are to be deemed to be occupiers for the purposes of this section, and may also determine the several liabilities, in respect of the payment of the occupier's rate, of tenants and of persons to whom tenants may have sub-let their lands, or of proprietors and of persons to whom proprietors may have let the lands held by them in cultivating occupancy.

37. In addition to the occupier's rate, a rate to be called the 'owner's rate' may be imposed, according to rules to be made by the Local Government, on the owners of canal-irrigated lands, in respect of the benefit which they derive from such irrigation.

38. The owner's rate shall not exceed the sum which, under the rules for the time being in force for the assessment of land-revenue, might be assessed on such land, on account of the increase

Liability when person using unauthorizedly cannot be identified.

Liability when water runs to waste

Charges recoverable in addition to penalties.

Decision of questions under sections 33 and 34.

Charge on occupier for water how determined.

'Occupier's rate.'

'Owner's rate.'

Amount of owner's rate.

in the annual value or produce thereof caused by the canal-irrigation. And for the purpose of this section only, land which is permanently settled or held free of revenue, shall be considered as though it were temporarily settled and liable to payment of revenue.

Owner's rate when not chargeable.

39. No owner's rate shall be chargeable either on the owner or occupier of land temporarily assessed to pay land-revenue at irrigation rates during the currency of such assessment.

40—43. [*Repealed by Act XVI of 1887 (The Punjab Tenancy Act).*]

Water-rate by whom payable when charged on land held by several owners.

44. Where a water-rate is charged on land held by several joint owners, it shall be payable by the manager or other person who receives the rents or profits of such land, and may be deducted by him from such rents or profits before division, or may be recovered by him from the persons liable to such rate in the manner customary in the recovery of other charges on such rents or profits.

Recovery of Charges.

Certified dues recoverable as land revenue.

45. Any sum lawfully due under this Part, and certified by the Divisional Canal Officer to be so due, which remains unpaid after the day on which it becomes due, shall be recoverable by the Collector from the person liable for the same as if it were an arrear of land-revenue.

Power to contract for collection of canal-dues.

46. The Divisional Canal Officer or the Collector may enter into an agreement with any person for the collection and payment to the Government by such person of any sum payable under this Act by a third party.

When such agreement has been made, such person may recover such sum by suit as though it were a debt due to him, or an arrear of rent due to him, on account of the land, work or building in respect of which such sum is payable, or for or in which the canal-water shall have been supplied or used.

If such person makes default in the payment of any sum collected by him under this section, such sum may be recovered from him by the Collector under section forty-five; and if such sum or any part of it be still due by the said third party, the sum or part so due may be recovered in like manner by the Collector from such third party.

Lambardars may be required to collect canal dues.

47. The Collector may require the lambardar or person under engagement to pay the land-revenue of any estate, to collect and pay any sums payable under this Act by a third party, in respect of any land or water in such estate.

Such sums shall be recoverable by the Collector as if they were arrears of land-revenue due in respect of the defaulter's share in such estate;

and for the purposes of collecting such sums from the subordinate zamindars, ryots, tenants or sub-tenants such lambardar or person may exercise the powers, and shall be subject to the rules

laid down in the law for the time being in force in respect to the collection by him of the rents of land or of shares of land-revenue.

The Local Government shall provide—

- (a) for remunerating persons collecting sums under this section; or
- (b) for indemnifying them against expenses properly incurred by them in such collection; or,
- (c) for both such purposes.

48. Nothing in sections forty-five, forty-six or forty-seven applies to fines.

Fines excluded from sections 45, 46, 47.

PART VI.

OF CANAL-NAVIGATION.

49. Any vessel entering or navigating any canal contrary to the rules made in that behalf by the Local Government, or so as to cause danger to the canal or the other vessels therein, may be removed or detained, or both removed and detained, by the Divisional Canal Officer, or by any other person duly authorized in this behalf.

Detainer of vessels violating rules.

The owner of any vessel causing damage to a canal, or removed or detained under this section, shall be liable to pay to the Government such sum as the Divisional Canal Officer, with the approval of the Superintending Canal Officer, determines to be necessary to defray the expenses of repairing such damage, or of such removal or detention, as the case may be.

Liability of owners of vessels causing damage.

50. Any fine imposed under this Act upon the owner of any vessel, or the servant or agent of such owner or other person in charge of any vessel, for any offence in respect of the navigation of such vessel, may be recovered either in the manner prescribed by the Code of Criminal Procedure, or, if the Magistrate imposing the fine so directs, as though it were a charge due in respect of such vessel.

Recovery of fines for offences in navigating canals.

v of 1898.

51. If any charge due under the provisions of this Part in respect of any vessel is not paid on demand to the person authorized to collect the same, the Divisional Canal Officer may seize and detain such vessel and the furniture thereof, until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full.

Power to seize and detain vessel on failure to pay charges.

52. If any charge due under the provisions of this Part in respect of any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purposes of a canal, is not paid on demand to the person authorized to collect the same, the Divisional Canal Officer may seize such cargo or goods and detain them until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full.

Power to seize cargo or goods, if charges due thereon are not paid.

Procedure of recovery of such charges after seizure.

53. Within a reasonable time after any seizure under section fifty-one or section fifty-two the said Canal Officer shall give notice to the owner or person in charge of the property seized that it, or such portion of it as may be necessary, will, on a day to be named in the notice, but not sooner than fifteen days from the date of the notice, be sold in satisfaction of the claim on account of which such property was seized, unless the claim be discharged before the day so named.

And if such claim be not so discharged, the said Canal Officer may, on such day, sell the property seized or such part thereof as may be necessary to yield the amount due, together with the expenses of such seizure and sale:

Provided that no greater part of the furniture of any vessel or of any cargo or goods shall be so sold than shall, as nearly as may be, suffice to cover the amount due in respect of such vessel, cargo or goods.

The residue of such furniture, cargo or goods, and of the proceeds of the sale, shall be made over to the owner or person in charge of the property seized.

Procedure in respect of vessels abandoned and goods unclaimed.

54. If any vessel be found abandoned in a canal, or any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purposes of a canal, be left unclaimed for a period of two months, the Divisional Canal Officer may take possession of the same.

The officer so taking possession may publish a notice that, such vessel, and its contents, or such cargo or goods, are not claimed previously to a day to be named in the notice, not sooner than thirty days from the date of such notice, he will sell the same; and, if such vessel, contents, cargo or goods be not so claimed, he may, at any time after the day named in the notice, proceed to sell the same.

Disposal of proceeds of sale.

The said vessel and its contents, and the said cargo or goods if unsold, or, if a sale has taken place, the proceeds of the sale, after paying all tolls, charges and expenses incurred by the Divisional Canal Officer on account of the taking possession and sale, shall be made over to the owner of the same, when his ownership is established to the satisfaction of the Divisional Canal Officer.

If the Divisional Canal Officer is doubtful to whom such property or proceeds should be made over, he may direct the property to be sold as aforesaid, and the proceeds to be paid into the district treasury, there to be held until the right thereto be decided by a Court of competent jurisdiction.

PART VII.

OF DRAINAGE.

Power to prohibit obstructions or order their removal.

55. Whenever it appears to the Local Government that injury to any land or the public health or public convenience has arisen or may arise from the obstruction of any river, stream or drainage-channel, such Government may, by notification published in the

official Gazette, prohibit, within limits to be defined in such notification, the formation of any obstruction, or may, within such limits, order the removal or other modification of such obstruction.

Thereupon so much of the said river, stream or drainage-channel, as is comprised within such limits, shall be held to be a drainage-work as defined in section three.

56. The Divisional Canal Officer, or other person authorized by the Local Government in that behalf, may, after such publication, issue an order to the person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in the order. Power to remove obstructions after prohibition.

If, within the time so fixed, such person does not comply with the order, the said Canal Officer may himself remove or modify the obstruction; and if the person to whom the order was issued does not, when called upon, pay the expenses involved in such removal or modification, such expenses shall be recoverable by the Collector from him or his representative in interest as an arrear of land-revenue.

57. Whenever it appears to the Local Government that any drainage-works are necessary for the improvement of any lands, or for the proper cultivation or irrigation thereof, Preparation of schemes for works of improvement.

or that protection from floods or other accumulations of water, or from erosion by a river, is required for any lands,

the Local Government may cause a scheme for such drainage-works to be drawn up and published, together with an estimate of its cost and a statement of the proportion of such cost which the Government proposes to defray, and a schedule of the lands which it is proposed to make chargeable in respect of the scheme.

58. The persons authorized by the Local Government to draw up such scheme may exercise all or any of the powers conferred on Canal Officers by section fourteen. Powers of persons employed on such schemes.

59. An annual rate, in respect of such scheme, may be charged, according to rules to be made by the Local Government, on the owners of all lands which shall, in the manner prescribed by such rules, be determined to be so chargeable. Rate on lands benefited by works.

Such rate shall be fixed as nearly as possible so as not to exceed either of the following limits:—

- (1) Six per cent. per annum on the first cost of the said works, adding thereto the estimated yearly cost of the maintenance and supervision of the same, and deducting therefrom the estimated income, if any, derived from the works, excluding the said rate:
- (2) In the case of agricultural land, the sum which, under the rules then in force for the assessment of land-revenue, might be assessed on such land on account of the increase of the annual value or produce thereof caused by the drainage-work.

Such rate may be varied from time to time, within such maximum, by the Local Government.

So far as any defect to be remedied is due to any canal, water-course, road or other work or obstruction, constructed or caused by the Local Government or by any person, a proportionate share of the cost of the drainage-works required for the remedy of the said defect, shall be borne by such Government or such person as the case may be.

Recovery of rate.

60. Any such drainage-rate may be collected and recovered in manner provided by sections forty-five, forty-six and forty-seven for the collection and recovery of water-rates.

Disposal of claims to compensation.

61. Whenever, in pursuance of a notification made under section fifty-five, any obstruction is removed or modified,

or whenever any drainage work is carried out under section fifty-seven,

all claims for compensation on account of any loss consequent on the removal or modification of the said obstruction or the construction of such work, may be made before the Collector, and he shall deal with the same in the manner provided in section ten.

Limitation of such claims.

62. No such claim shall be entertained after the expiration of one year from the occurrence of the loss complained of, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

PART VIII.

OF OBTAINING LABOUR FOR CANALS AND DRAINAGE-WORKS.

Definition of 'Labourer.'

63. For the purposes referred to in this Part, the word 'Labourer' includes persons who exercise any handicraft specified in rules to be made in that behalf by the Local Government.

Power to prescribe number of labourers to be supplied by persons benefited by canal.

64. In any district in which a canal or drainage-work is constructed, maintained or projected by Government, the Local Government may, if it thinks fit, direct the Collector—

(a) to ascertain the proprietors, sub-proprietors or farmers whose villages or estates are or will be, in the judgment of the Collector, benefited, by such canal or drainage-work, and

(b) to set down in a list, having due regard to the circumstances of the district and of the several proprietors, sub-proprietors or farmers, the number of labourers which shall be furnished by any of the said persons, jointly or severally, from any such village or estate, for employment on any such canal or drainage-work when required as hereinafter provided.

The Collector may, from time to time, add to or alter such list or any part thereof.

65. Whenever it appears to a Divisional Canal Officer duly authorized by the Local Government, that, unless some work is immediately executed, such serious damage will happen to any canal or drainage-work as to cause sudden and extensive injury, Procedure for obtaining labour for works urgent-ly required.

and that the labourers necessary for the proper execution thereof cannot be obtained in the ordinary manner within the time that can be allowed for the execution of such work so as to prevent such injury,

the said officer may require any person named in such list to furnish as many labourers (not exceeding the number which, according to the said list he is liable to supply) as to the said officer seem necessary for the immediate execution of such work.

Every requisition so made shall be in writing and shall state—

- (a) the nature and locality of the work to be done,
- (b) the number of labourers to be supplied by the person upon whom the requisition is made, and
- (c) the approximate time for which and the day on which the labourers will be required;

and a copy thereof shall be immediately sent to the Superintending Canal Officer for the information of the Local Government.

The Local Government shall fix, and may from time to time alter, the rates to be paid to any such labourers: provided that such rates shall exceed the highest rates for the time being paid in the neighbourhood for similar work. In the case of every such labourer, the payment shall continue for the whole period during which he is, in consequence of the provisions of this Part, prevented from following his ordinary occupation.

1V of 1914.

The Local Government may direct that the provisions of this Part shall apply, either permanently or temporarily (as the case may be), to any district or part of a district for the purpose of effecting necessary annual silt-clearances, or to prevent the proper operation of a canal or drainage-work being stopped or so much interfered with as to stop the established course of irrigation or drainage.

66. When any requisition has been made on any person named in the said list, every labourer ordinarily resident within the village or estate of such person shall be liable to supply, and to continue to supply, his labour, for the purposes aforesaid. Liability of labourers under requisition.

PART IX.

OF JURISDICTION.

67. Except where herein otherwise provided, all claims against Government in respect of anything done under this Act may be tried by the Civil Courts; but no such Court shall in any case pass an order as to the supply of canal-water to any crop sown or growing at the time of such order. Jurisdiction under this Act of Civil Courts.

Settlement of differences as to mutual rights and liabilities of persons interested in water-course.

68. Whenever a difference arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a water-course, any such person may apply in writing to the Divisional Canal Officer stating the matter in dispute. Such officer shall thereupon give notice to the other persons interested that, on a day to be named in such notice, he will proceed to enquire into the said matter. And, after such enquiry, he shall pass his order thereon, unless he transfers (as he is hereby empowered to do) the matter to the Collector, who shall thereupon enquire into and pass his orders on the said matter.

Such order shall be final as to the use or distribution of water for any crop sown or growing at the time when such order is made, and shall thereafter remain in force until set aside by the decree of a Civil Court.

Power to summon and examine witnesses.

69. Any officer empowered under this Act to conduct any enquiry may exercise all such powers connected with the summoning and examining of witnesses, as are conferred on Civil Courts by the Code of Civil Procedure;* and every such inquiry shall be deemed a judicial proceeding. XIV of 1882.

PART X.

OF OFFENCES AND PENALTIES.

Offences under Act.

70. Whoever, without proper authority and voluntarily, does any of the acts following, that is to say,—

- (1) damages, alters, enlarges or obstructs any canal or drainage work;
- (2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under, any canal or drainage-work;
- (3) interferes with or alters the flow of water in any river or stream, so as to endanger, damage or render less useful any canal or drainage-work;
- (4) being responsible for the maintenance of a water-course, or using a water-course, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner;
- (5) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;
- (6) causes any vessel to enter or navigate any canal contrary to the rules for the time being prescribed by the Local Government for entering or navigating such canal;

* See now Act Y of 1908.

- (7) while navigating on any canal, neglects to take proper precautions for the safety of the canal and of vessels thereon;
- (8) being liable to furnish labourers under Part VIII of this Act, fails, without reasonable cause, to supply or to assist in supplying the labourers required of him;
- (9) being a labourer liable to supply his labour under Part VIII of this Act, neglects, without reasonable cause, so to supply, and to continue to supply, his labour;
- (10) destroys or moves any level-mark or water-gauge fixed by the authority of a public servant;
- (11) passes, or causes animals or vehicles to pass, on or across any of the works, banks or channels of a canal or drainage-work contrary to rules made under this Act, after he has been desired to desist therefrom;
- (12) violates any rule made under this Act, for breach whereof a penalty may be incurred;

shall be liable, on conviction before a Magistrate of such class as the Local Government directs in this behalf, to a fine not exceeding fifty rupees, or to imprisonment not exceeding one month, or to both. Penalty.

71. Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence under this Act: Provided that no person shall be punished twice for the same offence. Saving of prosecution under other laws.

72. Whenever any person is fined for an offence under this Act the Magistrate may direct that the whole or any part of such fine may be paid by way of compensation to the person injured by such offence. Compensation to person injured.

73. Any person in charge of or employed upon any canal or drainage-work, may remove from the lands or buildings belonging thereto, or may take into custody 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 following offences:— Power to arrest without warrant.

- (a) wilfully damages or obstructs any canal or drainage-work;
- (2) without proper authority interferes with the supply or flow of water in or from any canal or drainage-work, or in any river or stream, so as to endanger, damage or render less useful any canal or drainage-work.

74. In this Part the word 'Canal' shall (unless there be something repugnant in the subject or context) be deemed to include also all lands occupied by Government for the purposes of canals, and all buildings, machinery, fences, gates and other erections, trees, crops, plantations or other produce, occupied by or belonging to Government upon such lands. Definition of 'Canal'.

PART XI.

OF SUBSIDIARY RULES.

Power to
make, alter
and cancel
rules.

75. The Local Government may, from time to time, make ~~XXXVIII of~~ 1920. rules to regulate the following matters:—

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

(2) the cases in which, and the officers to whom, and the conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable;

(3) the persons by whom and the time, place or manner at or ~~XII of 1891.~~ in which, anything for the doing of which provision is made in this Act, shall be done;

(4) the amount of any charge made under this Act; and

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

The Local Government may, from time to time, alter or cancel any rules so made.

Publication
of rules.

Such rules, alterations and cancellments shall be published in ~~XXXVIII of~~ the local official gazette, and shall thereupon have the force of law. 1920.

SCHEDULE.

Repealed by the Repealing Act, 1873 (XII of 1873).

THE PUNJAB MINOR CANALS ACT, 1905.
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SCHEDULE II.

PUNJAB ACT III OF 1905.

PASSED BY THE LIEUTENANT-GOVERNOR OF THE PUNJAB IN COUNCIL,

(Received the assent of His Honour the Lieutenant-Governor on the 7th April, 1905, and that of His Excellency the Viceroy and Governor-General in Council on the 12th May 1905. The Governor-General's assent was first published in the " Punjab Government Gazette " of 1st June 1905.)

AN ACT TO MAKE BETTER PROVISION FOR THE CONTROL AND MANAGEMENT OF MINOR CANALS IN THE PUNJAB.

WHEREAS it is desirable to make better provision for the exercise of control over and for the regulation of the management of certain minor canals in the Punjab:

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Punjab Minor Canals Act of 1905. Short title and local extent.

(2) It shall extend to the whole of the Punjab.

2. (1) The provisions of this Act shall apply to the extent and in the manner hereinafter provided to every canal specified in either Schedule I or Schedule II as the case may be. Operation of Act.

(2) At any time after the commencement of this Act, the Local Government may, from time to time, by notification,—

(a) include any canal under either Schedule I or Schedule II, as the case may be, or transfer a canal from one schedule to the other schedule, and thereupon the provisions of this Act applicable to canals included under such schedule, or such of the said provisions as the Local Government may direct, shall apply to such canal; or

(b) exclude from the operation of this Act any canal which now is, or hereafter may be, included under either Schedule I or Schedule II;

Provided, that no canal shall be included under Schedule I, unless—

(a) it is owned in whole or in part by Government, or

(b) is, at the commencement of this Act, managed by Government officers or by any local authority, or

(c) is situate partly within and partly without the territories to which this Act extends, or

(d) has been included under Schedule II and is transferred to Schedule I by direction of Government.

(3) The Northern India Canal and Drainage Act, 1873, shall VIII of 1873.
not apply to any canal which is for the time being included under
either Schedule I or Schedule II.

Definitions.

In this Act, unless there is something repugnant in the
subject or context—

- (i) "Record-of-rights" and "Revenue Officer" have the meanings assigned to them respectively in the Punjab Land Revenue Act, 1887; XVII of 1887
- (ii) "Canal" means any canal, natural or artificial channel or line of natural drainage or any reservoir, dam or embankment constructed, maintained or controlled for the supply or storage of water or the protection of land from flood or sand; and includes any water-course or subsidiary works as defined in this section;
- (iii) "Collector" means the head revenue-officer of a district and includes any officer appointed under this Act to exercise all or any of the powers of a Collector;
- (iv) "Commissioner" means a Commissioner of a division and includes any officer appointed under this Act to exercise all or any of the powers of a Commissioner;
- (v) "Construction" and "Construct" include any alteration which would materially extend the area irrigable by a canal or any other alteration of material importance or the renewal of a canal after disuse for six years, but do not include the re-excavation of a canal-head which has been temporarily abandoned owing to change in the river, the excavation of a new head necessitated by a change in the river or a change of water-courses to render existing irrigation more efficient;
- (vi) "Creek" means any channel of a river other than the main channel through which the water of the river would, unless obstructed by deposit of silt, naturally flow at some period of the year;
- (vii) "District" means a district as fixed for revenue purposes;
- (viii) "Irrigator" means in respect of any land which is irrigated from a canal any person for the time being directly deriving benefit by such irrigation and includes a land-owner or occupancy tenant of such land;
- (ix) "Labour" includes labourers, cattle and appliances necessary for the execution of the work for which labour is to be supplied;
- (x) "Mill" means any contrivance whereby the water-power of any canal is used for grinding, sawing or pressing, or for driving or working machinery or for

any other similar purpose, and includes all subsidiary works and structures connected with any such contrivance except the canal itself;

- (vi) "Subsidiary works" mean all works required for the control or maintenance of the supply to a canal or for the maintenance of a canal in proper condition or for the regulation of the irrigation therefrom or for the prevention of floods or for the provision of proper drainage, in connection with such irrigation, and include also the land required for such works;
- (vii) "Water-course" means any channel which is supplied with water from a canal and which is maintained at the cost of the irrigators, and includes all subsidiary works connected with such channel except the sluice or outlet through which water is supplied to such channel;
- (viii) "Water-due" means whatever is payable to Government in cash or kind, by the owner of a canal for the diversion, by such owner, for the purposes of such canal, of the water of any river, creek or stream flowing in a natural channel or of any lake or other natural collection of water;
- (ix) "Water-rate" means the charge made for canal water, other than a water-due or canal advantage land-revenue rate.

CHAPTER II.

CONSTRUCTION OF CANALS AND WATER-COURSES.

4. When Government has notified in this behalf any natural channel, lake or other collection of water, no person shall, without permission previously obtained in the manner prescribed in the section next following, construct a canal intended to be fed from any such channel, lake or other collection of water:

Prohibition against construction of canals without permission.

Provided that nothing in this section shall apply to the construction of a water-course from an existing canal.

5. (1) Any person desiring to construct a canal intended to be fed from any source of supply which has been notified by Government under section 4, may apply, in writing, to the Collector, for the permission prescribed in that section.

Application for permission and procedure thereon.

(2) Every application under sub-section (1) shall be in such form and shall contain such particulars as the Local Government may prescribe in that behalf.

6. (1) When a source of supply has been notified by Government under section 4 and the Collector considers that the construction of a canal to be fed therefrom will be advantageous, he shall give notice, by general proclamation to all persons interested of his intention to construct such canal.

Power of Collector to construct canal from notified source of supply.

(2) If no objection to the construction of such canal shall have been preferred within a period to be specified in the notice under sub-section (1), or if any such objection has been preferred within the said period, but has been finally over-ruled, the Collector may proceed to construct such canal.

(3) The provisions of sections 50 and 63 shall apply to all proceedings of the Collector under sub-section (1) of this section and under the preceding section, and the powers conferred upon the Collector by this and the preceding section shall be exercised subject to such sanction as the Local Government may prescribe and in accordance with the rules made by such Government.

Power to prohibit the unauthorized construction of and to close unauthorized canal.

7. (1) If any person, without the permission necessary under sections 4 and 5 of this Act, or contrary to any of the conditions of such permission, commences to construct or proceeds with the construction of any canal, the Collector may, at any time, by order in writing, prohibit such person, and, by general proclamation, all other persons, from continuing the construction thereof.

Provided that, unless in the case of a construction which would materially extend the area irrigable by a canal, no such order or proclamation, as the case may be, shall be made or issued in respect of any canal which, at the time when it is proposed to make or issue such order or proclamation, has been used for irrigation for a period of three years without interruption, other than such as was due to natural causes beyond the control of the person aforesaid.

(2) If any person shall, at any time after the commencement of this Act, construct a canal without the permission necessary under sections 4 and 5 of this Act, the Collector may, with the previous sanction of the Local Government, close it and shut off the supply of water thereto, and may further, by order in writing, prohibit such person, and, by general proclamation, all other persons, from maintaining, repairing or renewing such canal or continuing to use the water thereof.

Water-dues.

8. (1) Subject to the conditions, if any, imposed or agreed to by the Local Government such Government may assess and levy water-dues in respect of—

- (i) canals made after the commencement of this Act;
- (ii) canals made before the commencement of this Act—
 - (a) when the right to, or question of, water-dues has been expressly reserved by such Government, or
 - (b) when the conditions upon which the owner of the canal has been allowed to use the water have been agreed on for a term and that term has expired, or
 - (c) when such water-dues were already levied at the commencement of this Act.

(2) The demand on account of water-dues shall be assessed for a term of years, and shall be limited to an amount not exceed-

ing one quarter of the net profits which are likely to accrue to the owner of the canal during that term.

CHAPTER III.

PROVISIONS APPLICABLE TO CANALS UNDER SCHEDULE I.

9. Except as the Local Government may otherwise direct under section 69 the provisions of this chapter shall apply only to canals for the time being included under Schedule I.

This chapter applicable only to canals under Schedule I. General powers of Collector.

10. (1) Notwithstanding the existence of any rights in or over a canal or water-course, the Collector may—

(a) exercise all powers of control, management and direction for the efficient maintenance and working of such canal or for the due distribution of the water thereof; and

(b) whenever and so long as any water-course, sluice or outlet is not maintained in proper customary repair, or any water-course, sluice or outlet through which water is supplied to any person, or, in the case of a sluice or outlet, to any water-course or any person, is subjected to wilful damage or wrongful enlargement, stop the supply of water to such water-course, sluice or outlet or to any person.

(2) No claim shall be enforceable against the Local Government for compensation in respect of loss caused by any order passed under sub-section (1), but any person suffering loss by reason of any order passed under sub-section (1) (a) may claim such remission of the ordinary charges payable for the use of the water as is authorized by the Local Government:

Provided that if any right to water entered in a record-of-rights prepared or revised under section 28 (1) or deemed under section 28 (3) to have been made under this Act or admitted in any agreement between the Local Government and any person is substantially diminished in consequence of action taken under sub-section (1) (a) the Collector shall award compensation under section 55 to such person in respect of the diminution of his right.

(3) No right to the use of the water of a canal shall be, or be deemed to have been, acquired under the Indian Limitation Act, 1877,* nor shall Government be bound to supply any person with water.

11. (1) The Local Government may at any time suspend or extinguish any right to which any person is entitled in or over any canal if the exercise of such right is prejudicial to the interests of other irrigators or to the good management, improvement or extension of the canal.

Power of Government to suspend or extinguish rights in or over any scheduled canal on payment of compensation.

(2) In every such case the Local Government shall cause to be paid to the person whose right is suspended or extinguished,

* See now the Indian Limitation Act, 1908 (IX of 1908).

compensation to be assessed by the Collector under section 55. In assessing compensation for the purposes of this section, the Collector shall also have regard to the character of the right, the period during which it has been enjoyed and the damage likely to be occasioned by its suspension or extinction.

Power to enter and survey, &c.

12. The Collector or other person acting under the general or special orders of the Collector may enter upon any lands adjacent to any canal, or through which any canal is proposed to be made, and undertake surveys or levels thereon;

and dig and bore into the sub-soil;

and make and set up suitable land-marks, level-marks and water-gauges;

and do all other acts necessary for the proper prosecution of any inquiry relating to any existing or projected canal under the charge of the said Collector;

Power to clear land.

and, where otherwise such inquiry cannot be completed, the Collector or such other person may cut down and clear away any part of any standing crop, fence or jungle;

Power to inspect and regulate water-supply.

and may also enter upon any land, building or water-course on account of which any water-rate is chargeable, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of such canal;

Notice of intended entry into houses.

Provided that, if such Collector or person proposes to enter into any building or enclosed court or garden attached to a dwelling house not supplied with water flowing from any canal, he shall previously give the occupier of such building, court or garden at least seven days' notice in writing of his intention to do so.

Compensation for damage caused by entry.

In every case of entry under this section, the Collector shall, upon application made to him in this behalf, assess and pay compensation for any damage which may be occasioned by any proceeding under this section.

Power to enter for repairs and to prevent accidents.

13. In case of any accident happening or being apprehended to a canal, the Collector or any person acting under his general or special orders in this behalf may enter upon any lands adjacent to such canal and may execute all works which may be necessary for the purpose of repairing or preventing such accident.

Compensation for damage to land.

In every such case, the Collector shall, upon application made to him in this behalf, assess and pay compensation under section 55, for any damage which may be occasioned by any proceeding under this section.

14. (1) The Collector or any person acting under his general or special orders in this behalf may, within such distance from the canal as the Local Government may by rule determine, occupy land adjacent to any canal for the purpose of—

- (a) depositing upon it soil excavated from the canal, or
- (b) excavating from it earth for repairs to the canal.

The Collector shall, upon application made to him in this behalf, assess and pay compensation for any damage which may be occasioned by any proceeding under this section.

Power to occupy land adjacent to canal for depositing soil from canal and to excavate earth for repairs to the banks and compensation for damage.

(2) The owner of any land which has been occupied after the commencement of this Act for any purpose under sub-section (1) and has remained in such occupation for a period exceeding three years may require that such land shall be permanently acquired in accordance with provisions of section 44.

15. Whenever application is made to a Collector for a supply of water from a canal, and it appears to him expedient that such supply should be given, and that it should be conveyed through some existing water-course, he shall give notice to persons responsible for the maintenance of such water-course to show cause, on a day not less than fourteen days from the date of such notice, why the said supply should not be so conveyed; and, after making inquiry on such day, the collector shall determine whether and on what conditions the said supply shall be conveyed through such water-course.

Supply of water through intervening water-course.

The applicant shall not be entitled to use such water-course until he has paid the expense of any alteration of such water-course necessary in order to his being supplied through it, and also such share of the first cost of such water-course as the Collector may determine.

Such applicant shall also be liable for his share of the cost of maintenance of such water-course so long as he uses it.

16. Any person desiring the construction of a new water-course may apply in writing to the Collector, stating—

Application for construction of new water-course.

- (i) that he has endeavoured unsuccessfully to acquire, from the owners of the land through which he desires such water-course to pass, a right to occupy so much of the land as will be needed for such water-course;
- (ii) that he desires the Collector, in his behalf and at his cost, to do all things necessary for acquiring such right;
- (iii) that he is able to defray all costs involved in acquiring such right and constructing such water-course.

17. If the Collector considers—

- (i) that the construction of such water-course is expedient, and

Procedure of Collector thereupon.

(ii) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Collector considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation which he considers likely to become due under section 20;

and, upon such deposit being made, he shall cause inquiry to be made into the most suitable alignment for the said water-course, and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof, and shall forthwith publish a notice in every village through which the water-course is proposed to be taken, that so much of such land as belongs to such village has been so marked out.

Application
for transfer
of existing
water-course.

18. Any person desiring that an existing water-course should be transferred from its present owner to himself, may apply in writing to the Collector stating—

(i) that he has endeavoured unsuccessfully to procure such transfer from the owner of such water-course;

(ii) that he desires the Collector, in his behalf, and at his cost, to do all things necessary for procuring such transfer;

(iii) that he is able to defray the cost of such transfer.

Procedure
thereupon.

If the Collector considers—

(a) that the said transfer is necessary for the better management of the irrigation from such water-course, and

(b) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Collector considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation that may become due under the provisions of section 20 in respect of such transfer; and; upon such deposit being made, he shall publish a notice of the application in every village affected.

Inquiry into
and determi-
nation of,
objections to
construction
or transfer of
water-courses.

19. (1) When within thirty days from the publication of a notice under section 17 or section 18, as the case may be, any person interested in the land or water-course to which the notice refers, applies to the Collector as aforesaid, stating his objection to the construction or transfer for which application has been made, the Collector shall give notice to the other persons interested that, on a day to be named in such notice or any subsequent day to which the proceedings may be adjourned, he will proceed to inquire into the matter in dispute or into the validity of such objections as the case may be.

(2) Upon the day so named or any such subsequent day as aforesaid, the Collector shall proceed to hear and determine the dispute or the objection as the case may be.

20. No applicant under section 16 or section 18, as the case may be, shall be placed in occupation of such land or water-course until he has paid to the person named by the Collector such amount as the Collector determines to be due as compensation for the land or water-course so occupied or transferred, and for any damage caused by the marking out or occupation of such land, together with all expenses incidental to such occupation or transfer.

Expenses to be paid by applicant for construction or transfer of water-course before receiving occupation.

Compensation to be made under this section shall be assessed as provided in section 55, but the Collector may, if the person to be compensated so desire, award such compensation in the form of a rent charge payable in respect of the land or water-course occupied or transferred.

Procedure in fixing compensation.

If such compensation and expenses are not paid when demanded by the person entitled to receive the same, the amount may be recovered by the Collector, and shall, when recovered, be paid by him to the person entitled to receive the same.

Recovery of compensation and expenses.

21. (1) When any such applicant has duly complied with the conditions laid down in section 20, he shall be placed in occupation of the land or water-course as aforesaid, and the following rules and conditions shall be thereafter binding on him and his representative in interest:—

Conditions binding on applicant placed in occupation.

(a) In all cases—

First.—All works necessary for the passage across such water-course or water-courses existing previous to its construction and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the neighbouring lands, shall be constructed by the applicant, and be maintained by him or his representative in interest to the satisfaction of the Collector.

Second.—Land occupied for a water-course under the provisions of section 17 shall be used only for the purpose of such water-course.

Third.—The proposed water-course shall be completed to the satisfaction of the Collector within one year after the applicant is placed in occupation of the land.

(b) In cases in which land is occupied or a water-course is transferred, on the terms of a rent-charge—

Fourth.—The applicant or his representative in interest shall, so long as he occupies such land or water-course, pay rent for the same at such rate and on such days as are determined by the Collector when the applicant is placed in occupation.

Fifth.—If the right to occupy the land cease owing to a breach of any of these rules, the liability to pay the said rent shall continue until the applicant or his representative in interest has restored the land to its

original condition, or until he has paid, by way of compensation for any injury done to the said land, such amount and to such person as the Collector determines.

Sixth.—The Collector may, on the application of the person entitled to receive such rent or compensation, determine the amount of rent due or assess the amount of such compensation: and if any such rent or compensation be not paid by the applicant or his representative in interest, the Collector may recover the amount, with interest thereon at the rate of six per cent. per annum from the date on which it became due, and shall pay the same, when recovered, to the person to whom it is due.

(2) If any of the rules and conditions prescribed by this section are not complied with, or if any water-course constructed or transferred under this Act is disused for three years continuously, the right of the applicant, or of his representative in interest, to occupy such land or water-course shall cease absolutely.

Construction of outlets from canals by Collector.

22. The Collector may construct or repair or alter a sluice or outlet to regulate the supply of water from a canal to any water-course.

Power to convert several water-courses running for a long distance side by side into one water-course.

23. (1) In cases where there are water-courses running side by side or so situated as to interfere with the economical use or proper management of the water-supply, the Collector, if applied to for that purpose, or on his own motion may require the owners to make arrangements to his satisfaction to unite the water-courses or to substitute for them such system as may have been approved by him.

(2) If the owners fail within such time as the Collector may fix to comply with any order passed by him under sub-section (1) the Collector may himself execute the work.

(3) Whenever a water-course has been reconstructed or a new system substituted under sub-section (1) or sub-section (2), the Collector may fix the shares in which the water shall be enjoyed by the persons entitled to use the water-course.

Procedure applicable to occupation for extensions and alterations.

24. The procedure hereinbefore provided for the occupation of land for the construction of a water-course shall be applicable to the occupation of land for any extension or alteration of a water-course and for the deposit of soil from water-course clearances.

Costs of executing works under section 22 or section 23 by whom payable.

25. In every case under section 22 or section 23, the cost of executing or completing the work shall be payable by such person or persons deriving benefit from the water-course as the Collector may in each case determine.

26. The Local Government may, by notification, direct that the irrigators from any canal or any two or more adjacent canals shall be bound to furnish labour free of cost to Government for the purpose of effecting the annual silt clearance of such canal or canals or of maintaining such canal or canals in a state of efficiency or of executing any work necessary thereto, in either of the following cases, namely:—

- (a) whenever such irrigators are bound, by a condition entered in the records-of-rights of such canal or canals or of the estates supplied with water therefrom or by established custom, to furnish such labour, or
- (b) whenever the land-owners who are responsible for the payment of more than half the land revenue assessed on the land irrigated from such canal or canals, agree to undertake to supply such labour.

27. Upon the issue of a notification under section 26 the Collector may, from time to time, by general or special order,—

- (a) determine the amount of labour to be provided or the amount of work to be performed by each irrigator;
- (b) regulate the attendance, distribution and control of the labourers provided or the manner of the performance of the work;
- (c) assess and recover the cost of such labour from any person who fails to comply with an order passed under this section; and
- (d) fund all costs so recovered and expend them on the provision of hired labour for any of the canals to which the notification applies, or subject to the provisions, if any, of a record-of-rights specified in section 26 or section 28, on any other purpose connected with the well-being thereof:

Provided that the costs assessed as aforesaid shall not exceed eight annas for each day's labour of each of the labourers in respect of whom default has occurred.

28. (1) The Collector shall, whenever the Local Government may, by special order or by the rules made under the authority of this Act, so direct, prepare or revise for any canal a record showing all or any of the following matters, namely:—

- (a) the custom or rule of irrigation;
- (b) the rights to water and the conditions on which such rights are enjoyed;
- (c) the rights as to the erection, repair, reconstruction and working of mills, and the conditions on which such rights are enjoyed; and
- (d) such other matters as the Local Government may by rule prescribe in this behalf.

(2) Entries in the record so prepared or revised shall be relevant as evidence in any dispute as to the matters recorded, and shall be presumed to be true until the contrary is proved by a new entry is lawfully substituted therefor:

Provided that no such entry shall be so construed as to limit any of the powers conferred on Government by this Act.

(3) When a record showing all or any of the matters enumerated in sub-section (1) has been framed at any settlement of the land revenue already sanctioned by the Government and has been attested by a revenue-officer, such record shall be deemed to have been made under this section.

(4) Every person interested shall be bound to furnish to the Collector, or to any person acting under the direction of the Collector, all information necessary for the correct preparation of a record under this section.

(5) The provisions of Chapter IV of the Punjab Land Revenue Act, 1887, shall, so far as may be, apply to the preparation and revision of every such record.

Water-rates.

Levy of
water-rates.

29. (1) Subject to the terms of any agreement made by it with the owners or irrigators, the Local Government may, by notification, direct that a rate or rates shall be levied for the use of water of a canal in an authorized manner.

(2) The Local Government may, by notification, also impose a special rate for all water obtained or used without authority or in an unauthorized manner.

(3) The rate or rates imposed under sub-section (1) or sub-section (2) shall be leviable from such persons deriving benefit from the water as the Local Government may, by general or special rule, direct.

(4) Subject to the terms of any such agreement as aforesaid, the proceeds of any rate or rates levied under this section shall be disposed of in such manner as the Local Government may, by general or special rule, direct.

Liability
when person
using un-
authorisedly
cannot be
identified.

30. If water supplied through a water-course be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified,

the person on whose land such water has flowed if such land has derived benefit therefrom,

or, if such person cannot be identified, or if such land has not derived benefit therefrom, all the persons chargeable in respect of the water supplied through such water-course,

shall be liable, or jointly liable as the case may be, to the charges made for such use.

31. If water supplied through a water-course be suffered to run to waste, and if, after inquiry by the Collector, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such water-course shall be jointly liable for the charges made in respect of the water so wasted.

Liability when water runs to waste.

32. All charges for the unauthorized use or for waste of water may be recovered in addition to any penalties incurred on account of such use or waste.

Charges recoverable in addition to penalties.

All questions under section 30 or section 31 shall be decided by the Collector.

CHAPTER IV.

PROVISIONS APPLICABLE TO CANALS INCLUDED UNDER SCHEDULE II.

33. Except as the Local Government may otherwise direct under section 69 of the provisions of this chapter shall apply only to canals for the time being included under Schedule II.

This Chapter applicable only to canals under Schedule II.

34. Where there are numerous share-holders in the ownership of a canal, or where it is difficult to ascertain the persons who are share-holders, or the extent of the interest of the share-holders, or any of them, the Collector may, if there is no proper manager or representative, require by a proclamation or notice in writing, the share-holders to nominate, within a given period, a fit person as manager of the canal and their representative, and, upon their failure to do so, may himself appoint any person to be the manager of such canal and the representative of the share-holders, and the person so appointed may thereupon do all acts and things which the share-holders or any of them might lawfully do in regard to the management of such canal, and all acts and things so done by him shall be binding upon every person who possesses any share in the ownership of such canal.

Power of the Collector, in certain cases, to declare or appoint a manager of canal.

35. The Local Government may, by notification, declare all or any of the provisions of section 28 (as to the preparation and revision of records) to be applicable to any canal, and, upon any such declaration being made, such provisions shall, as far as may be, apply accordingly.

Power of Local Government to apply the provisions of section 28 to any canal.

36. (1) It shall be lawful for the Local Government, by notification, to assume the control or management, or both, of any canal—

Power to assume control or management, or both, of a canal.

(a) if the owner of such canal consents thereto, and subject to the condition (if any) on which such consent may in any case be given;

(b) if, after inquiry, the Local Government is satisfied that the control or management exercised by or on behalf of the owner is such as causes grave injury to the property or health of persons owning lands in the vicinity;

(c) in the event of any wilful and continuous breach of orders issued under section 39 of this Act.

(2) When the control or management, or both, of any canal is assumed under the provisions of sub-section (1), the Local Government may exercise all or any of the rights and powers in regard thereto which, but for such assumption, the owner might lawfully have exercised, and may delegate such powers or any of them to any person, but Government shall, in the absence of any decree or agreement to the contrary, be liable to account, from time to time, to such owner for the income and expenditure thereof and may at any time restore the canal to the owner.

Right of owner upon such assumption, to demand that the canal shall be acquired by the Government.

37. When the control or management, or both, of a canal shall be assumed by the Local Government under clause (b) or clause (c) of sub-section (1) of section 36, and such control or management shall have continued for a period exceeding six years, the owner thereof may, by notice in writing delivered to the Collector, require that the Government shall acquire such canal.

Power to acquire canal on demand of the owner.

38. On receipt of notice under sub-section 37 the Local Government shall by notification declare that the said canal will be acquired after a day to be named in the said notification, not being earlier than three months from the date thereof, and after the issue of such notification the Collector shall proceed as in sections 46 and 47 provided.

Power to fix the limits of irrigation and water-rates and to regulate the distribution of water.

39. The Local Government may, after inquiry through the Collector, in respect of any canal, issue orders as to all or any of the following things, namely—

- (a) fixing the limits, within which land may be irrigated from such canal;
- (b) fixing, as it may deem equitable, the amount and character of the water-rates leviable by the owner, and the conditions on which such rates are to be paid, suspended, remitted or refunded;
- (c) regulating the supply and distribution of the water to and from such canal:

Provided that if any land which has been continuously irrigated from the canal for three years previously is deprived of irrigation, or the income of the canal-owner from such canal is materially reduced by reason of any order passed under this section, the owners of such land or the canal-owner shall be paid by Government or by such persons as Government may determine such compensation as the Collector may consider reasonable.

Provided further that if the canal-owner has in the opinion of the Local Government exercised his powers as such in an arbitrary or inequitable manner, he shall not be entitled to compensation under this section.

40. (1) The Local Government may, at the request of the owner, undertake the collection of the water-rates leviable in respect of a canal for such period as may be agreed upon with him, and may, thereupon—

Collection in certain cases, of water-rates of a canal by the Local Government.

(a) regulate such collection and determine the person by whom it shall be made;

(b) direct that by way of payment for service rendered in making such collection, deductions shall be made not exceeding 3 per cent. of the amount collected.

(2) During the period for which the Local Government has undertaken the collection of the water-rates leviable in respect of a canal, no suit for the recovery of any such rates shall be instituted.

CHAPTER V.

PROVISIONS APPLICABLE TO ALL CANALS.

41. Save as otherwise hereinafter expressly provided, the provisions of this Chapter shall be applicable to all canals, whether included under Schedule I or under Schedule II.

This Chapter applicable to all canals.

42. Whenever, in respect of any canal, any question arises which has under this Act or the rules made thereunder, to be determined by the request, consent or decision of the owner, and the ownership of such canal is vested in more persons than one who are unable to agree as to such request, consent or decision it shall be lawful to the Collector to act on behalf of the owners in any such matter, and the request, consent or decision of the Collector in any such case shall be binding upon every person who possesses any share in the ownership of such canal.

Consent or decision of the owner how to be determined.

In every such case the Collector shall give due consideration to the wishes of the share-holder or share-holders who possess the larger interest, and when the question is one whether the Government shall be required to take any action, the wishes of such share-holder or share-holders shall prevail and be accepted by the Collector.

43. (1) Save as provided in the preceding section, whenever a dispute arises between two or more persons in regard to their mutual rights and liabilities in respect of the ownership, construction, use or maintenance of a canal or water-course, and any such person applies in writing to the Collector stating the matter in dispute, the Collector shall give notice to the other person or persons interested that on a day to be named in such notice or any such day to which the proceedings may be adjourned, he will proceed to inquire into the matter in dispute.

Settlement of disputes.

(2) Upon the day so named or any such subsequent day as aforesaid, the Collector shall proceed to hear and determine the dispute in the following manner, that is to say,—

(a) If the dispute relates to the ownership of a canal or the mutual rights of owners in the use of the water of such canal or the construction or maintenance of a

canal or the payment of any share of the costs of such construction or maintenance or the distribution of the supply of water from a canal, the Collector shall proceed as a Revenue Court under the provisions of the Punjab Tenancy Act, 1887, and the provision of that Act regarding appeals, revisions and reviews shall be applicable. XVI of 1887.

(b) If the dispute relates to a water-course the Collector shall hear and determine the case as a Revenue Officer and shall make such order thereon as to him seems fit, and such order shall unless set aside on appeal to the Commissioner be conclusive as to the use or distribution of water for any crop sown or growing at the date of such order. The order of the Commissioner on appeal shall in every such case be final.

Acquisition
of land for
canals.

44. (1) Any person who has obtained the permission of the Local Government to construct, or who owns a canal, may apply in writing to the Collector to take up any land required for the purposes of such canal.

(2) If the Collector is of opinion that the application should be granted, he shall submit it, with his recommendation, for the orders of the Local Government.

(3) If, in the opinion of the Local Government the application should, whether in whole or in part, be granted, it may declare that the land is required for a public purpose within the meaning of the Land Acquisition Act, 1894, and direct the necessary action to be taken thereunder. I of 1894.

Power to
acquire
canal
by consent or
otherwise.

45. Whenever it appears to the Local Government expedient in the public interest to acquire any canal, the Local Government may by notification declare that the said canal will be acquired after a day to be named in the said notification, not being earlier than six months from the date thereof.

Notice as to
claims for
compensa-
tion.

46. As soon as practicable after the issue of such notification the Collector shall cause public notice to be given at convenient places stating that the Local Government intends to acquire the said canal as aforesaid and that claims for compensation in respect of the acquisition thereof may be made before him.

Inquiry into
claims.

47. (1) The Collector shall proceed to inquire into any such claims and to determine the amount of compensation, which should be given to the claimant. In assessing such compensation the Collector shall proceed as provided in section 55, but for the purposes of this section he shall also have regard to the history of the canal, the expenditure incurred thereon and the profits of the owner.

Limitation of
claims.

(2) No claim for compensation shall be enforceable after the expiration of one year from the date of the notice under section 46, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

48. (1) The Local Government shall by notification declare the day on which a canal has been acquired by it. Vesting of canal in the Government.

(2) Subject to the award of compensation to the owner or person interested in the said canal, when the Local Government acquires a canal,—

(a) the right, title and interest therein of the owner thereof shall forthwith cease and determine;

(b) such canal, subject to any rights to take water for irrigation which any person may have, shall forthwith vest in and be the absolute property of the Government.

49. The Local Government may, by notification published in the official Gazette, take power to regulate the flow of water in any river, creek, natural channel or line of natural drainage, whether by the construction or removal of works or otherwise, and whenever it appears to such Government, after inquiry through the Collector that the supply of water to a canal or the cultivation of any land or the public health or public convenience is likely to be injuriously affected by the obstruction of any river, creek, natural channel or line of natural drainage it may, by notification published as aforesaid, prohibit within the limits to be defined by such notification the formation of such obstruction, or may within such limits order the removal or other modification of such obstruction. Power to regulate flow of water in rivers, creeks, natural channels or lines of natural drainage and to prohibit therein or order removal therefrom of obstructions.

50. (1) The Collector may, after such publication, issue an order to the person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in the order. Power to remove obstruction after publication of notification, and payment of compensation.

(2) The Collector may himself remove or modify the obstruction—

(a) if the person to whom the order under sub-section (1) was issued fails to comply with that order within the time so fixed; and

(b) in any case where the obstruction is not caused or controlled by any person.

(3) The Collector shall determine from whom the cost of removing or modifying the obstruction shall be recovered, and the amount of compensation due to any person injuriously affected by the removal or modification of the obstruction and the person by whom such compensation shall be payable:

Provided that no compensation shall be awarded for an advantage obtained by an arbitrary or inequitable course of action.

51. When the Local Government has by notification as provided in section 49 taken power to regulate the flow of water in any river, creek or natural channel or line of natural drainage it may authorize the Collector to exercise such power on its behalf in accordance with such rules as it may prescribe. A Collector so Power of the Collector to regulate flow of water and prohibit or remove obstructions.

authorised may in the execution of such rules exercise all the powers conferred upon him by section 50, and his authority shall include the power to take such action as the Local Government is empowered by section 49 to take after inquiry through the Collector. Such authority may on every occasion be exercised without the publication of any further notification in the Gazette.

Powers as to the construction and maintenance of works in respect of canals under Schedule II.

52. (1) The Collector may, at any time, order the owner of any canal under Schedule II to—

- (a) repair and maintain, in a proper state, all or any embankments, protective works, reservoirs, channels, water-courses, sluices, outlets and other works connected with the canal;
- (b) construct, repair and maintain, in a proper state, a suitable bridge, culvert, or similar work at any place across, under, or over the canal, for the purpose of providing communication with any public road or thoroughfare which was in use before the canal was made;
- (c) construct, repair and maintain, in a proper state, suitable works for the passage of the water of the canal across, under, or over any public road or thoroughfare or any canal or drainage channel which was in use before the canal was made;
- (d) construct, repair and maintain, in a proper state, a suitable regulator at or near the head of the canal where, for want of such regulator, an excessive supply of water may enter the canal or cause damage to it, or any crops, lands, roads or property in the neighbourhood.

“ Canal ” as used in this sub-section does not include “ water-course.”

(2) The Collector may at any time order the owner of a water-course to perform in respect of such water-course all or any of the acts which he may under sub-section (1) order the owner of a canal to perform in respect of the canal, and may direct the owner of the canal to cease supplying water to the water-course till the owner of the water-course has complied with the order.

(3) Every order under sub-sections (1) and (2) shall be in writing, and shall specify a reasonable time within which the works or repairs mentioned therein shall be completely executed.

(4) If any order made under this section is not obeyed, to the satisfaction of the Collector, within the time therein specified, the Collector may himself execute or complete the execution of, or cause to be so executed or completed, all works or repairs specified in the order.

53. In the case of canals included under Schedule I, the Collector may—

(a) call upon the irrigators to discharge any of the liabilities specified in section 52, sub-section (1), which the Local Government may have declared to attach to the irrigators from such canal or group of canals; or

(b) himself arrange for the performance of such acts and recover the cost as provided in section 57.

54. (1) If any new work is immediately required to prevent serious detriment to the utility of a canal, the Collector may, notwithstanding anything in the Land Acquisition Act, 1894, take immediate possession of any land required for the construction of the work.

(2) When the Collector has taken possession of any land under sub-section (1), he shall, upon application made to him in this behalf, assess and pay compensation under section 55.

(3) In the event of sudden and serious damage or urgent risk to a canal or to property situate in the immediate neighbourhood thereof, or to irrigation carried on therefrom, or to the public traffic, the Collector may, after giving previous notice, execute or cause to be executed such works as he may think necessary in order to remedy or prevent such damage or risk, and may require any irrigator to furnish such labour as to the said Collector may seem reasonable and necessary for the immediate execution of such works.

(4) Labour furnished under this section shall be paid for at the local market rate.

(5) An order passed under sub-sections (3) and (4) shall be final.

55. In assessing the amount of compensation to be paid under any section of this Act, other than sections 12, 14, 21, 39 and 50, the Collector shall proceed under the provisions of the Land Acquisition Act, 1894, and the provisions of that Act regarding inquiries and awards by the Collector, references to the Civil Courts and procedure thereon, apportionment of compensation, payment and appeals shall, as far as may be, be applicable to all proceedings under this section.

56. With the consent of the parties, the Collector may when assessing the amount of compensation to be paid, direct, in the case of an acquisition of land, that the property in such land shall remain with the owner subject to a right of user so long as the land is required for the purpose of the canal or water-course, compensation being awarded for the right of user only, or in the case of an acquisition of a canal or of land for the purposes of a canal, that the compensation shall take the form in whole or in part of a right to a supply of water from the canal which has been acquired or for the purposes of which land has been acquired.

Powers as to construction and maintenance of works in respect of canals under Schedule I.

Powers to take possession and to construct works in cases of emergency.

Assessment of compensation.

Compensation for right of user or in the form of a supply of water.

I of 1894.

I of 1894.

Apportionment and recovery of the cost of land acquired or works executed.

57. (1) When any land is acquired under the provisions of section 44, or when any work is executed by or under the orders of the Collector under the provisions of section 50, section 52, section 53 or section 54, the cost of acquiring such land or of executing such work, as the case may be, shall be recoverable—

- (a) if the canal is included under Schedule II,—from the owner thereof; or
- (b) if the canal is included under Schedule I,—from the irrigators or such of them as are, in the opinion of the Collector, benefited or likely to be benefited by the acquisition or equitably liable for the whole or any part of the cost of executing the work or from the proceeds of any water-rate levied under section 29; and
- (c) if such appropriation is not contrary to the provisions of the record-of-rights specified in section 28 of this Act,— from the fund referred to in section 27 of this Act.

(2) When the cost of acquiring any land or of executing any work is, under the provisions of sub-section (1), recoverable from the owner of any canal or from the irrigators therefrom, or any of them, it shall be lawful for the Collector to apportion such cost as to him may seem equitable, among all or any of the persons liable for the whole or any portion thereof and such apportionment shall be final.

(3) When the cost of acquiring such land has been paid, such land, if acquired in full proprietary right, shall become the property of the canal-owner.

Power to regulate mills.

58. The Local Government may, by general or special order, prohibit or regulate the construction of new, and regulate the use of existing, mills upon canals, and the appropriation of the water of canals for working mills.

Application of sections 13 to 16 of Land Revenue Act 1887.

59. Except in so far as a contrary intention is expressed, sections 13 to 16 (both inclusive) of the Punjab Land Revenue Act of 1887, shall apply to all proceedings under this Act.

XVII of 1887.

Exclusion of jurisdiction of Civil Court except under Land Acquisition Act.

60. Save as in section 55 provided, no Civil Court shall have jurisdiction in any matter which a Revenue Officer or Revenue Court is empowered by this Act to dispose of, or take cognizance of the manner in which the Local Government or any Revenue Officer or Revenue Court exercises any powers vested in it or him by or under this Act.

Power to appoint officials to exercise functions under this Act.

61. (1) The Local Government may appoint any person or any class of officials to perform any functions or to exercise any powers, by this Act or the rules made thereunder conferred on or vested in the Collector, Commissioner, Financial Commissioner or such Government.

(2) Such appointments may be made in respect of any canal or of all or any of the canals situate within any specified local area.

(3) In all matters connected with this Act, the Local Government shall have and exercise over the Financial Commissioner, the Commissioner and the Collector, and the Financial Commissioner shall have and exercise over the Commissioner and the Collector, and the Commissioner shall have and exercise over the Collector, the same authority and control as it or they respectively have and exercise over them in the general and revenue administration.

62. For the purposes of every inquiry made and proceeding taken under this Act, the Collector or any other Revenue Officer authorized by him in this behalf shall have power to summon and enforce the attendance of and examine parties and witnesses and compel the production of documents, and for all or any of these purposes may exercise all or any of the powers conferred on a Civil Court by the Code of Civil Procedure, 1882,* and every such inquiry shall, for the purposes of the Indian Penal Code, be deemed to be a judicial proceeding.

Powers of Collector in certain proceedings under the Act.

XIV of 1882.
XLV of 1860.

63. In all cases under sections 6, 8, 11, 21, 23, 25, 30, 31, 34, 36, 38, 39, 40, 42, 43, 47, 49, 50, 52, 53 and 57 of this Act, the owners and other parties interested in the canal shall be given an opportunity of appearing before the Collector and of showing cause to the contrary.

Permission to owners and parties interested in any canal to object in certain cases.

64. Every summons, notice, proclamation and other process issued under this Act shall, as far as may be, be served or made in the manner provided in that behalf in sections 20, 21 and 22 of the Punjab Land Revenue Act, 1887.

XVII of 1887.

Mode of serving notices and making proclamations.

65. Save as otherwise expressly provided in this Act, no person shall be entitled to recover any compensation for anything at any time done or in good faith intended to be done in exercise of any power conferred by this Act or by the rules made thereunder.

Bar of compensation where not expressly allowed.

66. No suit, prosecution or other legal proceeding shall lie against any person for anything done, or in good faith intended to be done under this Act or the rules made thereunder.

Protection of persons acting under the Act.

67. (1) In any suit or proceeding in which an entry made in any record prepared under section 28 or section 35 is directly or indirectly called in question, the Court shall, before the final settlement of issues, give notice of the suit or proceeding to the Collector, and, if moved to do so by the Collector, shall make the Secretary of State for India in Council a party to the same.

Government to be party to certain suits and proceedings.

(2) Save as provided in sub-section (1) no suit shall lie against the Government in respect of anything done by the Collector or by any person acting under the orders of the Local Government, in the exercise of any power by this Act conferred on such Collector or Government.

Bar of other suits against Government.

* See now Act V of 1908.

Power to recover water dues, water-rates and other charges by revenue process.

68. All water-dues, water-rates and other payments at any time due by or to be collected from any person under any provision of this Act or under an agreement entered into by the owners of the canal or the person irrigating from it and all arrears of such water-dues, water-rates or other payments shall be recoverable as if the same were arrears of land-revenue.

Powers as regards canals, creeks, situate partly within the limits of the Punjab.

69. Any or all of the powers exercisable by the Local Government under this Act in respect of any canal, river, or creek, may be exercised by such Government in the case of any canal, river, or creek, which is or may at any time be situate partly within and partly without the limits of the Punjab and in respect of so much of any such canal, river, or creek, as is within those limits; and in the case of any such canal, river or creek, the Local Government may by notification, and notwithstanding the provisions of section 2, declare what sections of this Act shall be applicable thereto.

Power exercisable in cases of urgency with regard to canals situate beyond the Punjab.

70. In respect of any canal situate beyond the limits of the Punjab the Local Government may, by notification published in the official Gazette, declare that the powers exercisable by a Collector under section 54 may, under the circumstances there specified, be exercised by the Collector or other authorized officer within the limits of the Punjab for all or any of the purposes of such canal.

Offences under the Act.

71. Whoever without proper authority and voluntarily does any of the acts following, that is to say,—

- (1) damages, alters, enlarges, or obstructs any canal;
- (2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under any canal;
- (3) interferes with or alters the flow of water in any river, creek or stream so as to endanger, damage or render less useful any canal;
- (4) being responsible for the maintenance of any water-course or using a water-course, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of the water therefrom or uses such water in an unauthorized manner;
- (5) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;
- (6) being liable to furnish labour under this Act, fails without reasonable cause, to supply or to assist in supplying the labour required of him;
- (7) being liable to supply labour under this Act, neglects, without reasonable cause, so to supply and to continue to supply labour;

- (8) destroys or removes any level-mark or water-gauge fixed by the authority of a public servant;
- (9) passes or causes animals or vehicles to pass on or across any of the works, banks or channels of a canal contrary to rules made under this Act after he has been desired to desist therefrom;
- (10) disobeys any order or proclamation issued under this Act, or commits any breach of any rule made thereunder;

shall be liable on conviction before a Magistrate of such class as the Local Government directs in this behalf, to a fine not exceeding fifty rupees or to imprisonment not exceeding one month, or to both.

72. Any person in charge of or employed upon any canal managed by Government officers or by a District Board may remove from the lands or buildings belonging thereto, or may take into custody 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 following offences:—

- (1) wilfully damages or obstructs any canal;
- (2) without proper authority interferes with the supply of, or flow of water in or from any canal or in any river or stream, so as to endanger, damage or render less useful any canal.

73. In sections 71 and 72 the word 'canal' shall (unless there be something repugnant in the subject or context) be deemed to include also all lands occupied for the purposes of canals and all buildings, machinery, fences, gates and other erections, trees, crops, plantations or other produce upon such lands.

74. (1) The Local Government may make rules, consistent with this Act, regulating any matter in regard to which any power is, by this Act, conferred upon the Local Government, or upon any officer of Government, and generally to carry out the purposes of this Act.

(2) Without prejudice to the generality of the power conferred by sub-section (1), rules made under this Act may provide for the levy of a rate imposed upon land in consideration of its protection from sand or flood.

(3) All rules made under sub-section (1) shall be so made after previous publication in the Gazette.

SCHEDULES I AND II, *see* Volume II.

THE PENSIONS ACT, 1871.

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THE PENSIONS ACT NO. XXIII OF 1871.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of His Excellency the Governor-General
on the 8th August, 1871.)

As amended by—

ACT XII OF 1891, ACT X OF 1914 AND ACT XII OF 1927.

AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO PENSIONS AND GRANTS BY GOVERNMENT OF MONEY OR LAND REVENUE.

WHEREAS it is expedient to consolidate and amend the law relating to pensions and grants by Government of money or land revenue; it is hereby enacted as follows:—

I.—PRELIMINARY.

- 1.** This Act may be called The Pensions Act, 1871: Short title.
It extends to the whole of British India: Extent of Act.
- 2.** The enactments mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column of the said schedule. Enactments repealed.
- But all rules in regard to the award and payment of pensions or grants of money or land-revenue, and the identification of the persons entitled to receive them, made under any such enactment, shall be deemed to have been made under this Act so far as they are consistent therewith. Saving of rules.
- 3.** In this Act, the expression "grant of money or land-revenue" includes anything payable on the part of Government in respect of any right, privilege, perquisite or office. Interpretation-section.

II.—RIGHTS TO PENSIONS.

- 4.** Except as hereinafter provided, no Civil Court shall entertain any suit relating to any pension or grant of money or land-revenue conferred or made by the British or any former Government, whatever may have been the consideration for any such pension or grant, and whatever may have been the nature of the payment, claim or right for which such pension or grant may have been substituted. Bar of suits relating to pensions.
- 5.** Any person having a claim relating to any such pension or grant may prefer such claim to the Collector of the District or Deputy Commissioner or other officer authorized in this behalf by the Local Government, and such Collector, Deputy Commissioner or other officer shall dispose of such claim in accordance with such rules as the Chief Revenue-authority may, subject to the general control of the Local Government, from time to time prescribe in this behalf. Claims to be made to Collector, Deputy Commissioner, or other authorized officer.

Power of Civil Court to take cognizance of such claims.

6. A Civil Court, otherwise competent to try the same, shall take cognizance of any such claim upon receiving a certificate from such Collector, Deputy Commissioner or other officer authorized in that behalf that the case may be so tried, but shall not make any order or decree in any suit whatever by which the liability of Government to pay any such pension or grant as aforesaid is affected directly or indirectly.

Pensions for lands held under grants in perpetuity.

7. Nothing in sections four and six applies to—
 (1) any inam of the class referred to in the first section of Madras Act No. IV of 1862;
 (2) pensions heretofore granted by Government in the territories respectively subject to the Lieutenant-Governors of Bengal and the North-Western Provinces, either wholly or in part, as an indemnity for loss sustained by the resumption by a Native Government of lands held under sanads purporting to confer a right in perpetuity. Such pensions shall not be liable to resumption on the death of the recipient, but every such pension shall be capable of alienation and descent, and may be sued for and recovered in the same manner as any other property.

III.—MODE OF PAYMENT.

Payment to be made by Collector, Deputy Commissioner or other authorized officer.

8. All pensions or grants by Government of money or land-revenue shall be paid by the Collector or the Deputy Commissioner or other authorized officer, subject to such rules as may, from time to time, be prescribed by the Chief Controlling Revenue-authority.

Saving of rights in respect of the recovery of land-revenue.

9. Nothing in sections four and eight shall affect the right of a grantee of land-revenue, whose claim to such grant is admitted by Government, to recover such revenue from the persons liable to pay the same under any law for the time being in force for the recovery of the rent of land.

Commutation of pensions.

10. The Local Government may, with the consent of the holder, order the whole or any part of his pension or grant of money or land-revenue to be commuted for a lump sum on such terms as may seem fit.

Exemption of pension from attachment.

11. No pension granted or continued by Government on political considerations, or on account of past services or present infirmities, shall be liable to attachment as a compassionate allowance, and no money due or to become due on account of any such pension or allowance,

Assignments etc., in anticipation of such pensions to be void.

shall be liable to seizure, attachment or sequestration by process of any Court in British India, at the instance of a creditor, for any demand against the pensioner, or in satisfaction of a decree or order of any such Court.

12. All assignments, agreements, orders, sales and securities of every kind made by the person entitled to any pension, pay or allowance mentioned in section eleven, in respect of any money not payable at or before the making thereof, on account of any such

pension, pay or allowance, or for giving or assigning any future interest therein, are null and void.

13. Whoever proves to the satisfaction of the Local Government that any pension is fraudulently or unduly received by the person enjoying the benefit thereof, shall be entitled to a reward equivalent to the amount of such pension for the period of six months. Reward to informers.

14. The Chief Controlling Revenue authority may, with the consent of the Local Government, from time to time, make rules consistent with this Act respecting all or any of the following matters:—

- (1) the places and times at which, and the persons to whom, any pension shall be paid;
- (2) inquiries into the identity of claimants,
- (3) records to be kept on the subject of pensions,
- (4) transmission of such records,
- (5) correction of such records,
- (6) delivery of certificates to pensioners,
- (7) register of such certificates,
- (8) reference to the Civil Court, under section six, of persons claiming a right of succession to, or participation in, pensions or grants of money or land-revenue payable by Government.

and generally for the guidance of officers under this Act.

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

SCHEDULE.

Number and year.	Title or subject.	Extent of repeal.
I.—BENGAL REGULATIONS.		
XXIV of 1793	A Regulation for re-enacting with Modifications, the Rules passed by the Governor-General in Council on the 10th June 1791, for determining the Continuance or Discontinuance of the Pensions heretofore paid by the Proprietors and Farmers of Land, but included in the Jumsa or Revenue payable to Government at the Decennial Settlement, and also of the Pensions heretofore paid from the Sayer abolished.	The whole.
XXXIY of 1795	A Regulation for re-enacting with Modifications, the Rules respecting the Pensions payable from the Government and Moolky Treasuries in the Province of Benares.	The whole.

SCHEDULE—CONCLUDED

Number and year.	Title or subject.	Extent of repeal.
I.—BENGAL REGULATIONS—concluded.		
XXIV of 1808	A Regulation for trying the Validity of Titles of Persons receiving, or claiming a right to receive Pensions, under the Denominations of Saleanah, Rozenah, or any other Description of Grant, in the Provinces ceded by the Nawab Vizier to the Honourable the English East India Company.	The whole.
XXII of 1806	A Regulation for modifying the Rules hitherto observed in the admission and Payment of Claims to Pensions.	The whole.
II of 1811	A Regulation for amending the existing Rules for the Support of Invalid Native Commissioned and Non-Commissioned Officers.	The whole.
XI of 1813	A Regulation for modifying some of the Rules before established respecting the Payment of Pensions, and for preventing the abuses committed in the receipt of Pensions.	The whole.
VI of 1817	A Regulation to explain the Purport and Intent of the Provision contained in Section II, Regulation XXIV, 1803.	The whole.
II.—MADRAS REGULATIONS.		
I of 1808	A Regulation for defining the Duties of the Board of Revenue, and for determining the Extent of the Powers vested in the Board of Revenue.	Section forty-three.
II of 1803	A Regulation for describing and determining the Conduct to be observed by Collectors in certain cases.	Section thirty.
IV of 1831	A Regulation for better securing the Grantees personal or hereditary Grants of Money or of Land Revenue, conferred by the Government in consideration of Services rendered to the State, or in lieu of resumed Offices or Privileges or of Zamindaries, or Pollams forfeited or held under Attachment or Management by the Officers of Government, or as Xcomiahs or Pensions.	The whole.
III.—BOMBAY REGULATIONS.		
XXIX of 1827	A Regulation for bringing under the operation of the Regulations the Bombay Territories in the Dekkan and Khandesh.	Section six, clauses 2 and 3.
IV.—ACTS.		
XXXI of 1836	Government Grants	The whole.
XXIII of 1838	Exemption of grants from attachment ..	The whole.
VI of 1849	An Act for securing Military and Naval Pensions and Superannuation Allowances.	The whole.

* The entry relating to Bengal Regulation I of 1804 was repealed by the Repealing Act, 1927 (XII of 1927).

**THE COLONIZATION OF GOVERNMENT LANDS
(PUNJAB) ACT, V OF 1912.**

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PUNJAB COLONIZATION OF GOVERNMENT LANDS ACT, V OF 1912.

PASSED BY THE LIEUTENANT-GOVERNOR OF THE PUNJAB IN COUNCIL.
(Received the assent of His Honour the Lieutenant-Governor on the 18th May 1912, and that of His Excellency the Viceroy and Governor-General on the 6th June 1912; the Governor-General's assent was first published in the "Punjab Gazette" of the 21st June 1912.)

As amended by—
Act XXXVIII of 1920.

and PUNJAB ACT-III OF 1920.

AN ACT TO MAKE BETTER PROVISIONS FOR THE COLONIZATION AND ADMINISTRATION OF GOVERNMENT LANDS IN THE PUNJAB.

WHEREAS it is expedient to make better provision for the colonization and administration of Government lands in the Punjab;

It is hereby enacted as follows—

1. (1) This Act may be called the Colonization of Government Lands (Punjab) Act, 1912. Title and local extent.

(2) It extends to the Punjab.

2. The Government Tenants (Punjab) Act, 1893, is hereby repealed. Repeal.

3. In this Act, unless there is something repugnant in the subject or context— Definitions.

"Collector" means the Collector of the district as described in the Punjab Land Revenue Act, 1887, and includes (1) any officer appointed by the Local Government to perform all or any of the functions and exercise all or any of the powers of the Collector under this Act, and (2) any Colonization Officer or Assistant Colonization Officer appointed as such before the commencement of this Act, whether or no such officer was by notification appointed to perform all or any of the functions of a Deputy Commissioner under the Act hereby repealed.

"Commissioner" includes any officer appointed by the Local Government to perform all or any of the functions and exercise all or any of the powers of a Commissioner under this Act.

"Colony" means any area to which this Act shall be applied order to the Local Government and, unless the

Local Government otherwise directs, any area to which the Government Tenants (Punjab) Act, 1893, has been applied. III of 1893.

“ Prescribed ” means sanctioned by the Local Government under this Act or under the Act hereby repealed.

“ Improvements ” means such improvements as defined in section 4 (19) of the Punjab Tenancy Act, 1887, as the tenant is permitted to make under the conditions applicable to his tenancy. XVI of 1887.

“ Tenant ” means any person holding land in a colony as a tenant of Government, and includes the predecessors and successors in interest of a tenant.

“ Original tenant ” means any male to whom a tenancy is first allotted by the Collector, and includes the male transferee of such a tenant and any male nominated by the Collector in accordance with the provisions of Section 21 to succeed a female, to whom a tenancy was first allotted. Punjab Act III of 1920.

CHAPTER I.

PRELIMINARY.

Application
of the Act.

4. This Act shall, unless the Local Government otherwise directs, apply to land to which the provisions of the Government Tenants (Punjab) Act, 1893, have been applied and to any other land to which the Local Government may by notification in the official Gazette apply it and which at the time of the notification was the property of the Government: III of 1893.

Provided that unless the Local Government by general or special order otherwise directs nothing in sections 20, 21, 22 and 23, or in the proviso to section 14, of this Act shall, apply to tenancies specified in Schedule I of this Act or to any class of tenancies created hereafter which the Local Government may declare to be scheduled tenancies under this section. XXXVIII of 1920.

Power to
withdraw a
colony from
the operation
of the Act.

5. The Local Government may, at any time by notification in the official Gazette, withdraw a colony or any part of a colony from the operation of all or any of the provisions of this Act.

Applicability
of the Pun-
jab Tenancy
Act.

6. (1) Except as provided in section 7 of this Act, the Punjab Tenancy Act, 1887, shall not be applicable to tenancies held under this Act. XVI of 1887.

(2) Nothing in sub-section (1) of this section shall affect the application of the Punjab Tenancy Act, 1887, to any matter or dispute arising between Government tenants and their sub-tenants to which Government is not a party. XVI of 1887.

XVII and XVI of 1887. 7. Subject to the provisions of this Act, the Punjab Land Revenue Act, and Chapter VII of the Punjab Tenancy Act, and the rules made thereunder shall, in so far as they are applicable, apply to all proceedings under this Act. But nothing in the Punjab Land Revenue Act or the Punjab Tenancy Act, 1887, shall be so construed as to vary or invalidate any condition entered in any statement of conditions issued by the Local Government, and in particular shall not be so construed as to limit successions to tenancies otherwise than as provided in such statement of conditions.

XVII of 1887. 8. Section 136 (1) of the Punjab Land Revenue Act, 1887, shall be amended by inserting after the words "under section 49" the words "or any Revenue Officer in a colony."

XVI of 1887. 9. Notwithstanding anything in section 4 of the Land Revenue Act, 1887, the provisions of Chapter IV of that Act shall apply to all village sites in a colony.

CHAPTER II.

PROVISIONS RELATING TO TENANTS.

10. (1) The Local Government may grant land in a colony to any person on such conditions as it thinks fit.

(2) The Local Government may issue a statement or statements of the conditions on which it is willing to grant land in a colony to tenants.

(3) Where such statements of conditions have been issued, the Collector may, subject to the control of the Financial Commissioner, allot land to any person, to be held subject to such statement of conditions issued under sub-section (2) of this section as the Collector may by written order declare to be applicable to the case.

(4) No person shall be deemed to be a tenant or to have any right or title in the land allotted to him until such a written order has been passed and he has taken possession of the land with the permission of the Collector. After possession has been so taken, the grant shall be held subject to the conditions declared applicable thereto.

III of 1893. **XV of 1895.** 11. Subject to the provisions of this Act, the grant of any tenancy in accordance with any statement of conditions which has been or may hereafter be issued by the Local Government under the Government Tenants (Punjab) Act, 1893, or under this Act shall be deemed to be a transfer of land within the meaning of the Crown Grants Act, 1895, and shall be governed by the provisions by the said Act.

12. Any condition included in any statement of conditions which imposes an obligation of residence shall not be deemed to have been infringed by reason only of the temporary absence of a tenant who has established a permanent residence in the estate in which his holding is situated.

Entries in record of rights or in annual record to be equivalent to entries in register issued under Act III of 1893.

13. Where in any statement of conditions issued before the commencement of this Act reference is made to any register prescribed under the Government Tenants (Punjab) Act, 1893, then the record of rights or the annual record shall, so far as may be, be deemed to be such a register.

Sec 117
1891 to 1893
III of 1893

Position of tenants holding hitherto under Act III of 1893.

14. Any person, who at any time before the commencement of this Act, was a tenant from Government of land to which the Government Tenants (Punjab) Act, 1893, applied and for which a statement of conditions was issued under that Act, shall, notwithstanding any previous agreement or anything contained in the Punjab Tenancy Act, 1887, or any other enactment now in force, be deemed to have accepted and to hold the lands of which he is a tenant in accordance with such statement of conditions:

Sec 117
1891 to 1893

Sec 117
III of 1893

XVI of 1887

Provided that unless such tenant shall, by deed executed and registered within twelve months from the date on which this Act comes into force, declare that the succession to his tenancy shall be in accordance with the statement of conditions applicable thereto, the succession to his tenancy shall be regulated by the provision of sections 20, 21, 22 and 23 of this Act.

Purchaser to be tenant pending payment in full of purchase money.

15. A purchaser from Government of land who has been placed in possession of the land by order of the Collector shall be deemed to be a tenant of such land until the full amount of the purchase money with any interest due thereon has been paid and the other conditions set forth in the statement of the conditions of sale issued by the Collector have been fulfilled.

False information by a tenant.

16. If any person who after the commencement of this Act has been put in possession of land in a colony as a tenant shall have given false information intending or having reason to believe that any officer of Government may be thereby deceived regarding his qualifications to become a tenant, he shall be deemed to have committed a breach of the conditions of his tenancy:

Provided that this section shall not apply to persons who have been in possession of a tenancy for more than three years or to any person who has acquired a right of ownership.

Exchange.

17. Subject to any orders that he may receive from the Commissioner, the Collector may allow any tenant to exchange the whole or any part of his tenancy for other land in the colony, and the land so taken in exchange shall, in the absence of any special condition to the contrary recorded in writing by the Collector, be deemed to be held on the same conditions and subject to the same obligations as the surrendered land was held.

Rights of tenant not to be attached or sold.

18. None of the rights or interests vested in a tenant from Government of land to which this Act applies shall be attached or sold in execution of a decree or order of any Court or in any insolvency proceedings.

III of 1892. 19. Except as provided in section 17, none of the rights or interests vested in a tenant by or under the Government Tenants (Punjab) Act, 1893, or this Act shall, without the consent in writing of the Commissioner, or of such officer as he may by written order empower in this behalf, be transferred or charged by any sale, exchange, gift, will, mortgage or other private contract, other than a sub-lease for not more than one year in the case of a tenant who has not acquired a right of occupancy and seven years in the case of a tenant who has acquired a right of occupancy. Any such transfer or charge made without such consent in writing shall be void, and if (after the commencement of this Act) the transferee has obtained possession, he shall be ejected under the orders of the Collector.

Transfers of rights to be void.

Punjab Act III of 1920. Provided that the right of sub-letting conferred by this section shall not release any tenant from a condition requiring him to reside in the estate in which his tenancy is situated.

20. Subject to proviso to Section 14, when after the commencement of this Act, any original tenant dies the succession to the tenancy shall devolve in the following order upon—

Succession to tenants acquiring otherwise than by succession.

- (a) the male lineal descendants of the tenant in the male line of descent. (The term 'lineal descendants' shall include an adopted son whose adoption has been ratified by a registered deed);
- (b) the widow of the tenant until she dies, or re-marries or loses her rights under the provisions of this Act;
- (c) the unmarried daughters of the tenant until they die or marry, or lose their rights under the provisions of this Act;
- (d) the successor or successors nominated by the tenant by registered deed from among the following persons, that is to say, his mother, his married daughter, his daughter's son, his sister, his sister's son, and the male agnate members of his family;
- (e) the successor or successors nominated by the Collector from among the persons enumerated in clause (d) of this section.

Punjab Act III of 1920. 21. When after the commencement of this Act, any male tenant, who is not an original tenant, dies, or any female tenant dies, marries or re-marries, the succession to the tenancy shall devolve—

Succession to tenants acquiring by succession.

- (a) in the case of a female, to whom the tenancy has been first allotted, or the successor nominated by the Collector from the issue of such female tenant, or from the male agnates of the person, on account of whose services the tenancy was allotted to her;
- (b) in all other cases on the person or persons, who would succeed if the tenancy were agricultural land acquired by the original tenant.

COLONIZATION OF GOVT. LANDS. [1912—Act V.]

Acquisition of ownership not to affect nomination of heir. 22. When a tenant has nominated a successor to his tenancy under section 20 (d) and subsequently acquires a right of ownership in the tenancy, the right of succession of the person so nominated shall, unless the deed of nomination expressly provides to the contrary, be unaffected by such acquisition of ownership.

Revocation of nomination. 23. When a tenant has, under section 20 (d) of this Act, nominated a successor, he may at any time, whether before or after acquiring ownership, revoke such nomination, but not otherwise than by registered deed.

Power of imposing penalties for breaches of conditions. 24. When the Collector is satisfied that a tenant in possession of land has committed a breach of the conditions of his tenancy, he may, after giving the tenant an opportunity to appear and state his objections—

(a) impose on the tenant a penalty not exceeding one hundred rupees, or

(b) order the resumption of the tenancy:

Provided that if the breach is capable of rectification, the Collector shall not impose any penalty or order the resumption of the tenancy unless he has issued a written notice requiring the tenant to rectify the breach within a reasonable time, not being less than one month, to be stated in the notice and the tenant has failed to comply with such notice.

Power of re-entry and provisions as to compensation in certain cases. 25. Where an order resuming the tenancy has been passed under the last preceding section, the Collector may forthwith re-enter upon the land and resume possession of it, subject to the payment of compensation, to be fixed by the Collector, for uncut and un-gathered crops, and for the improvements, if any, that may have been made by the tenant:

Provided that if the tenancy be allotted to any other person, the amount of the compensation, if any, paid to the out-going tenant shall be recoverable by the Collector from the in-coming tenant.

Provisions for re-entry on and compensation for buildings on sites allotted for residential purposes. 26. In any case where a tenant has been allotted a site for residential purposes in consideration of his tenancy and such tenancy has been resumed under the provisions of sections 24 and 25 of this Act, the Collector may re-enter on and take possession of such site:

Provided that the Collector shall fix and pay to the said tenant reasonable compensation for, or permit him to remove, any buildings or improvements made by him on such site.

Saving of certain tenancies and conditions.

27. (1) Nothing in sections 24, 25 or 26 shall apply to—

(a) the case of land irrigated by the Rakh and Mian Ali Branches of the Chenab Canal allotted before the twelfth day of August 1896, or

(b) any breach of a condition regarding arboriculture included in any statement of conditions other than a statement pertaining to tree-planting tenants.

(2) In the case of tenancies scheduled under the proviso to section 4, the operation of sections 24, 25 and 26 of this Act shall be subject to any special provisions in the statement of conditions applicable to such tenancies relating to the resumption of the tenancy, compensation for improvements and the disposal of uncut and ungathered crops.

III of 1893.

28. All sums due to Government in respect of a tenancy granted in pursuance of the Government Tenants (Punjab) Act, 1893, or under the provisions of this Act or of the rules and conditions issued thereunder, and all sums due on account of fines, confiscations, costs and penalties, shall be recoverable as if they were arrears of land revenue.

Sums due to Government to be recoverable as arrears of land revenue.

29. The Local Government may, at any time by notification in the official Gazette, abrogate any of the limitations and obligations imposed upon tenants as part of the conditions of their tenure.

Power to abrogate conditions.

CHAPTER III.

PROVISIONS RELATING TO PROPRIETORS.

III of 1893.

30. Notwithstanding anything entered in any statement of conditions issued under the Government Tenants (Punjab) Act, 1893, a tenant who, either in pursuance of any such condition or otherwise by agreement with, or under rules issued by Government, has acquired proprietary right in any land included in his tenancy shall in respect of such land cease to be subject to any statement of conditions issued under the above mentioned Act: provided always that he shall in respect of such land be bound by the conditions set out in Schedule II of this Act and be bound by the other provisions of this Act applicable to proprietors of land.

Acquisition of proprietary right.

CHAPTER IV.

SUPPLEMENTARY PROVISIONS.

31. No mare or camel or other animal maintained in accordance with any prescribed statement of conditions and no progeny, if less than eighteen months old, of any mare or camel so maintained shall be liable to attachment or sale in execution of any decree.

Mares, camels or their progeny maintained under prescribed conditions not to be attached or sold.

32. When the Collector is satisfied that any person has taken or is in possession of land in a colony to which he has no right or title, the Collector may, in addition to any other powers he may possess, forthwith re-enter upon the land and resume possession of it and take possession of all crops, trees and buildings thereon on behalf of Government without payment of any compensation whatsoever.

Power of re-entry in case of squatters and trespassers.

33. If any person, without permission of a Revenue Officer of a grade to be specified by the Local Government,—

Penalties.

(a) clears or breaks up for cultivation, or cultivates any land which is owned by or is in the possession of Government and is not included in any tenancy or allotted

residential enclosure or which has been set apart for the common purposes of a town or village community or section of the same, or for a road, canal or water-course; or

(b) erects any building on any such land; or

(c) fells or otherwise destroys standing trees on such land;

or
(d) otherwise encroaches on any such land; or

(e) makes an excavation or constructs a water channel on any such land;

he shall on complaint made by order of or under authority from the Collector be punished on conviction by any Magistrate with a fine not exceeding Rs. 200.

Explanation.—The felling of trees planted by an owner or tenant on any village road or water-course traversing his holding is not an offence under this section.

Additional powers of Collector in regard to offences.

34. When the Collector is satisfied that an act punishable under section 33 has been committed, he may, in lieu of proceeding against the offender under that section or after conviction of the offender under that section,—

(i) in the case of an offence under section 33 (a), confiscate the crops growing on any land cultivated in contravention of this Act or, if the crops have been cut, recover such sum as he may assess as the value thereof from the offender;

(ii) in the case of an offence under section 33 (c) recover such sum as he may assess as the value of the trees or tree destroyed;

(iii) in the case of an offence under section 33 (b), (d) or (e) cause the building or other encroachment to be demolished or removed or the excavation or channels to be filled up, and levy the costs of so doing from the person responsible for such act.

Power to levy a cess for administration of common village expenses.

35. (1) If in any estate the majority of the tenants and owners of the estate shall apply for the levy of a cess for village purposes, the Collector may order the payment of such a cess from the proprietors, tenants and inhabitants of the village in such way and at such rates as he holds to be suitable.

(2) Any cess leviable under this section shall be recoverable by suit under section 77 (3) (g) of the Punjab Tenancy Act, 1887. Section XVI of 1887.

Jurisdiction of Civil Court barred as regards matter arising under the Act.

36. A Civil Court shall not have jurisdiction on any matter of which the Collector is empowered by this Act to dispose, and shall not take cognizance of the manner in which the Local Government or Collector or any other Revenue Officer exercises any power vested in it or in him by or under this Act.

37. No suit shall lie against any public servant for anything done by him in good faith under this Act.

Public servants indemnified for acts done under this Act.

III of 1893.

38. (1) Any act hitherto done or order passed by the Local Government or by an officer holding the post of Colonization Officer, Assistant Colonization Officer or Settlement Commissioner, or exercising the powers of an Assistant Collector or of a Revenue Officer of higher class within any area to which the Government Tenants (Punjab) Act, 1893, has been applied or to which this Act may hereafter be applied, which is not contrary to the provisions of this Act, shall be deemed to have been done or passed under this Act.

Legalization or orders passed previous to the Act.

(2) In particular and without prejudice to the generality of the foregoing sub-section, no right of occupancy or right of ownership and no condition applicable thereto shall be invalidated by reason of—

- (i) the right having been granted before the particulars regarding it have been entered in a prescribed register; or
- (ii) the prescribed register not having been signed by the tenant; or
- (iii) the prescribed statement of conditions having been affixed to the prescribed register instead of being prefixed thereto:

Provided that if the register has not been signed by the tenant, the statement of conditions applicable to the tenancy shall be deemed to be that which was in force for tenancies of the same description at the time when the land was allotted.

SCHEDULE I.

LIST OF EXCEPTED TENANCIES REFERRED TO IN SECTION 4.

A.—In the Lower Chenab Colony the tenancies of tenants holding on the conditions applicable to—

- (1) Camel-owning tenants.
- (2) Camel-owning Chaudhris.
- (3) Village headmen, ordinary.
- (4) Village headmen, mule-breeding.
- (5) Tree-planting tenants.
- (6) Village menials.

B.—In the Lower Jhelum Colony the tenancies of tenants holding on the conditions applicable to—

- (1) Horse-breeding tenants.
- (2) Horse-breeding nazarana-paying tenants.
- (3) Village headmen.
- (4) Tree-planting tenants.
- (5) Village menials.

C.—In the Lower Sahag Para Colony the tenancies of tenants holding on the conditions applicable to—

Village headmen.

SCHEDULE II.

REFERRED TO IN SECTION 30.

Conditions applicable to grantees who acquired proprietary right.

Exceptions
of channels,
rights to
minerals, &c.

1. The Government does not grant, to the grantee but hereby absolutely excepts and reserves to itself out of and in respect of the said lands (1) all grounds situate in the said lands or any part thereof already marked out, excavated or otherwise utilized for the distributary channels, and (2) all existing rights to and over all mines and minerals, coals, gold-washings, earth-oil and quarries in or under the said lands or any part thereof, together with all easements heretofore enjoyed by the Government in respect of the said lands, or any part thereof. And it likewise excepts and reserves the right of the public to use existing thoroughfares traversing the said lands or any part thereof including a width of 1½ *kadams* on either side of survey base lines, and also any lines of road which, though not yet made, have been marked out upon the ground.

Power of
Government
entry to
search for
minerals, &c.

2. The grantee shall at all times permit the officers of Government to enter and do all acts and things that may be necessary and expedient for the purpose of searching for, working, getting or carrying away any such mines and minerals, coals, gold-washings, earth-oil and quarries, and for the full enjoyment of the ground and of the rights hereinbefore reserved to the Government to and over all mines and minerals, coals, gold-washings, earth-oil, quarries and easements in or under the said lands and all parts thereof.

Compensa-
tion for
damage by
entry.

3. The Government agrees to pay the grantees compensation for all damage occasioned by the exercise of the rights reserved to itself in clauses 1 and 2. Such compensation shall be assessed by the Collector, and if the grantee is not satisfied with the finding of the Collector, he may appeal to the Commissioner.

Demarcation
of bound-
aries.

4. The grantee shall duly comply with such directions as the Collector shall from time to time issue requiring him to construct boundary marks on the limits of the said lands or any part thereof, and shall keep them when erected in good repair to the satisfaction of the Collector.

Arbitration.

5. In the event of any dispute arising between the Government and the grantee as to the property and rights hereby reserved to Government, or as to any matter in any way relating thereto, or as to any of the conditions of the grant, or as to any matter or thing anywise connected therewith, the said dispute shall be referred for the opinion of the Commissioner, whose decision shall be final and conclusive between Government and the grantee.

REDEMPTION OF MORTGAGES ACT, 1913.
CONTENTS.

SECTIONS.

1. Preamble, title, extent and limitation of scope of Act to certain mortgages.
2. Definitions.
3. Application of certain sections of Punjab Tenancy Act.
4. Petition for redemption, verification, deposit and particulars to be contained in petition.
5. Mortgagee to be summoned.
6. Procedure when petitioner is absent and mortgagee present
7. Procedure when petitioner is present and mortgagee absent.
8. Procedure when both parties are in attendance: order for redemption.
9. Procedure in contentious cases.
10. Enquiry into objection raised by mortgagee.
11. Enquiry regarding sum due.
12. Saving of suits to establish rights. Setting aside *ex-parte* orders or orders of dismissal.
13. No second petition.
14. Return of deposit.
15. Deposit not to be attached.
16. Cessation of interest.
17. Power to make rules.

REDEMPTION OF MORTGAGES (PUNJAB) ACT No. II OF 1913.

PASSED BY THE LIEUTENANT-GOVERNOR OF THE PUNJAB IN COUNCIL.

(Received the assent of His Honour the Lieutenant-Governor of the Punjab on the 8th February 1913, and that of His Excellency the Viceroy and Governor-General on the 4th March 1913, the Governor-General's assent was first published in the "Punjab Government Gazette" of 14th March 1913.)

WHEREAS it is expedient to provide a summary procedure for the redemption of certain mortgages of land in the Punjab;

It is hereby enacted as follows:

1. (1) This Act may be called the Redemption of Mortgages (Punjab) Act, 1913. Title.

(2) It extends to the Punjab. Extent.

(3) It shall apply only to mortgages of land—

(a) in which, whatever the mortgage money, the land mortgaged, after excluding the area of any share in the common land of the village or of a sub-division of the village appertaining thereto and mortgaged therewith, does not exceed in area 30 acres; or Limitation of scope of Act to certain mortgages.

(b) in which, whatever the area, the principal money secured under the mortgage does not exceed 1,000 rupees:

Provided that it shall not apply to any mortgage made under section 6 of the Punjab Alienation of Land Act, 1900.

XIII of 1900.

2. In this Act, unless there is something repugnant in the subject or context,— Definitions.

(1) the expression "land" means land which is not occupied as the site of any building in a town or village and is occupied or let for agricultural purposes or purposes subservient to agriculture or for pasture, and includes—

(a) the sites of buildings and other structures on such land;

(b) a share in the profits of an estate or holding;

(c) any dues or any fixed percentage of the land revenue payable by an inferior landowner to a superior landowner;

(d) a right to receive rent;

(e) any right to water enjoyed by the owner or the occupier of land as such; and

(f) any right of occupancy:

(2) the expression "Collector" shall mean the Collector of the district in which the mortgaged property or any part thereof is situated, and shall include an Assistant Collector of the 1st grade:

(3) "prescribed" shall mean prescribed by rules made under this Act.

Application of certain sections of Punjab Tenancy Act.

3. Subject to the provisions of this Act and the rules thereunder, the provisions of sections 79, 85, 86, 87, 89, 90, 91, 92 and 101 of the Punjab Tenancy Act, 1837, shall, so far as may be, apply to all proceedings of a Collector under this Act. XVI of 1837.

Petition for redemption.

4. The mortgagor or other person entitled to institute a suit for redemption may, at any time after the principal money becomes payable and before a suit for redemption is barred, present a petition to the Collector applying for an order directing that his mortgage be redeemed and where the mortgage is with possession that he be put in possession of the mortgaged property. The petition shall be duly verified in the manner prescribed by law for the verification of plaints, and shall state the sum which the petitioner declares to the best of his belief to be due under the mortgage. The petitioner shall at the same time deposit such sum with the Collector.

Verification.

Deposit.

Particulars to be contained in petition.

The petitioner shall state in his petition such particulars and file therewith such documents as may be prescribed.

Mortgagee to be summoned.

5. When the petition has been duly presented and the deposit has been made, the Collector shall issue to the mortgagee a summons to appear on a date to be therein specified. Every summons shall be accompanied by a copy of the petition, with the date of deposit endorsed thereon.

Procedure when petitioner is absent and mortgagee present.

6. Where the mortgagee appears and the petitioner does not appear when the petition is called on for hearing, the Collector shall, unless he adjourns the proceedings, make an order that the petition be dismissed, unless the mortgagee admits the claim, in which case the Collector shall make an order—

- (a) that the mortgage be redeemed;
- (b) that where the mortgage is with possession the mortgagor be put in possession of the mortgaged property as against the mortgagee;
- (c) that the mortgagee deposit with the Collector the mortgage-deed, if any, if then in his possession or power, and that it be delivered to the petitioner;
- (d) that subject to the mortgage-deed, if any, being so deposited by the mortgagee the sum in deposit be paid to him:

Provided that no such order shall be made inconsistent with any condition of the mortgage whereby a season or period of the year is fixed for redemption or for surrendering possession.

7. When the petitioner appears, but the mortgagee does not appear, when the petition is called on for hearing, the Collector shall, unless he adjourns the proceedings, enquire in a summary manner (a) whether the petitioner is entitled to redeem the mortgaged property, and (b) whether the sum deposited by the petitioner is the sum rightly due under the mortgage.

Procedure when petitioner is present and mortgagee absent.

If the Collector is not satisfied that the petitioner is entitled to redeem, he shall dismiss the petition.

If the Collector is satisfied that the petitioner is entitled to redeem, and that the sum deposited is the sum rightly due under the mortgage, he shall make an order as laid down in section 6 (a), (b), (c) and (d) of this Act.

If the Collector is satisfied that the petitioner is entitled to redeem, but is of opinion that a sum larger than that in deposit is due under the mortgage, he shall fix a period not exceeding 30 days within which the petitioner shall deposit the difference, together with any further sum which may be due on account of interest up to the date of deposit. If the petitioner makes such deposit within such period or such further period not exceeding 30 days as the Collector may fix, the Collector shall make an order in manner aforesaid.

If the petitioner fails to make such deposit within the period fixed, the Collector shall dismiss the petition.

8. Where both parties appear when the petition is called on for hearing, the Collector shall enquire from the mortgagee whether he admits that the petitioner is entitled to redeem, whether he is willing to accept the sum in deposit in full discharge of the mortgage debt, and where the mortgage is with possession whether he is willing to surrender possession of the mortgaged property.

Procedure when both parties are in attendance: order for redemption.

If the mortgagee replies in the affirmative, the Collector shall make an order as laid down in section 6 (a), (b), (c) and (d) of this Act.

If the mortgagee admits the petitioner's title to redeem, but demands payment of a sum larger than that in deposit, the Collector shall enquire from the petitioner whether he is willing to pay such larger sum, and if he replies in the affirmative, the Collector shall fix a period not exceeding 30 days within which the petitioner shall deposit the difference, together with any further sum which may be due on account of interest up to the date of deposit. If the petitioner makes such deposit within such period or such further period not exceeding 30 days as the Collector may fix, the Collector shall make an order as laid down in section 6 (a), (b), (c) and (d) above.

If the petitioner fails to make such deposit within the period fixed, the Collector shall dismiss the petition.

9. If the mortgagee raises objection on any ground other than the amount of the deposit, or if the petitioner is not willing to pay the sum demanded by the mortgagee, the Collector may either (a) for reasons to be recorded dismiss the petition, or (b) make a summary enquiry regarding the objection raised by the mortgagee or regarding the sum due.

Procedure in contentious cases.

Enquiry into
objection
raised by
mortgagee.

10. If on enquiry regarding any objection so raised by the mortgagee the Collector is of opinion that it bars redemption or is a sufficient cause for not proceeding further with the petition, he shall dismiss the petition; but if he is not of that opinion, he shall, unless he dismisses the petition under section 11, make an order as laid down in section 6 (a), (b), (c) and (d) of this Act.

Enquiry
regarding
sum due.

11. If on enquiry regarding the sum due the Collector is of opinion that the sum deposited is the sum rightly due under the mortgage, he shall, unless he dismisses the petition under section 10, make an order as laid down in section 6 (a), (b), (c) and (d) of this Act, but if he is of opinion that a sum larger than the sum deposited should be deposited by the petitioner, he shall, unless he dismisses the petition under section 10, fix a period not exceeding 30 days within which the petitioner shall deposit the difference, together with any further sum which may be due on account of interest up to date of the deposit. If the petitioner makes such deposit within such period or such further period not exceeding 30 days as the Collector may fix, the Collector shall make an order as laid down in section 6 (a), (b), (c) and (d) of this Act.

If the petitioner fails to make such deposit within the period fixed, the Collector shall dismiss the petition.

Saving of
suits to
establish
rights.

12. Any party aggrieved by an order made under section 6, 7, 8, 9, 10 or 11 of this Act may institute a suit to establish his rights in respect of the mortgage, but, subject to the result of such suit, if any, the order shall be conclusive.

Setting aside
ex-parte
orders or
orders
of dismissal.

Notwithstanding anything in this section a mortgagee against whom an *ex-parte* order under section 7 has been made or a petitioner whose petition has been dismissed in default under section 6 may apply to the Collector to have such order or dismissal set aside and the Collector may in his discretion set aside, such order or dismissal on such terms as to costs or otherwise as he may deem fit; provided that the order or dismissal shall not be set aside unless notice of the application has been served on the opposite party.

No second
petition.

13. The dismissal of a petition under this Act shall bar any further petition under this Act by the same petitioner or his representative in respect of the same mortgage.

Return of
deposit.

14. If the Collector dismisses a petition under this Act, he shall order that the sum deposited by the petitioner be returned to him.

Deposit not
to be attach-
ed.

15. No sum deposited with the Collector by a petitioner under the provisions of this Act shall be attached by any Court or Revenue Officer.

Cessation of
interest.

16. When the petitioner has deposited with the Collector the sum declared by him to be due on the mortgage, and such sum is accepted by the mortgagee, or is found by the Collector to be the sum actually due, interest on the mortgage shall cease from the date of the deposit.

1913—Act II.] REDEMPTION OF MORTGAGES.

7

Where the Collector finds that a further sum is due and the petitioner deposits such further sum, interest shall cease from the date of such further deposit:

Provided that nothing in this section shall be deemed to deprive the mortgagee of his right to interest when there exists a contract that he shall be entitled to reasonable notice before payment or tender of the mortgage money:

Provided also that where a suit is instituted under section 12, the court may pass such order as to interest as it deems fit.

17. The Local Government shall have power to make rules, ^{Power to} consistent with this Act, for carrying out the purposes of this Act. ^{make rules.}

INDIAN FISHERIES ACT IV OF 1897.

CONTENTS.

SECTIONS.

1. Title and extent.
2. Act to be read as supplemental to other Fisheries Laws.
3. Definitions.
4. Destruction of fish by explosives in inland waters and on coasts.
5. Destruction of fish by poisoning of waters.
6. Protection of fish in selected waters by rules of Local Government.
7. Arrest without warrant for offences under this Act.

INDIAN FISHERIES ACT IV OF 1897.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the
4th February, 1897.)

AN ACT TO PROVIDE FOR CERTAIN MATTERS RELATING TO FISHERIES IN BRITISH INDIA.

WHEREAS it is expedient to provide for certain matters relating to fisheries in British India; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Fisheries Act, 1897. Title and extent.
- (2) It extends to the whole of British India, except Burma;

1 of 1897.

2. Subject to the provisions of Sections 8 and 10 of the General Act to be read as supplemental to other Fisheries Laws.
Clauses Act, 1887, this Act shall be read as supplemental to any other enactment for the time being in force relating to fisheries in any part of British India except Burma.

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

- (1) "fish" includes shell fish;
- (2) "fixed engine" means any net, cage, trap or other contrivance for taking fish, fixed in the soil or made stationary in any other way; and
- (3) "private water" means water which is the exclusive property of any person, or in which any person has for the time being an exclusive right of fishery whether as owner, lessee or in any other capacity.

Explanation.—Water shall not cease to be "private water" within the meaning of this definition by reason only that other persons may have by custom a right of fishery therein.

4. (1) If any person uses any dynamite or other explosive substance in any water with intent thereby to catch or destroy any of the fish that may be therein, he shall be punishable with imprisonment for a term which may extend to two months, or with fine which may extend to two hundred rupees. Destruction of fish by explosives in inland waters and on coasts.

(2) In sub-section (1) the word "water" includes the sea within a distance of one marine league of the sea-coast; and an offence committed under that sub-section in such sea may be tried, punished and in all respects dealt with as if it has been committed on the land abutting on such coast.

* The word "and" at the end of sub-section (2), and sub-section (3) were repealed by the Repealing and Amending Act, 1914 (X of 1914).

Destruction
of fish by
poisoning of
waters.

5. (1) If any person puts any poison, lime or noxious material into any water with intent thereby to catch or destroy any fish, he shall be punishable with imprisonment for a term which may extend to two months, or with fine which may extend to two hundred rupees.

(2) The Local Government may, by notification in the official Gazette, suspend the operation of this section in any specified area, and may in like manner modify or cancel any such notification.

Protection of
fish in select-
ed waters by
rules of Local
Government.

6. (1) The Local Government may make rules for the purposes hereinafter in this section mentioned, and may by a notification in the official Gazette apply all or any of such rules to such waters, not being private waters, as the Local Government may specify in the said notification.

(2) The Local Government may also, by a like notification, apply such rules or any of them to any private water with the consent in writing of the owner thereof and of all persons having for the time being any exclusive right of fishery therein.

(3) Such rules may prohibit or regulate all or any of the following matters, that is to say:—

(a) the erection and use of fixed engines;

(b) the construction of weirs; and

(c) the dimension and kind of the nets to be used and the modes of using them.

(4) Such rules may also prohibit all fishing in any specified water for a period not exceeding two years.

(5) In making any rule under this section the Local Government may—

(a) direct that a breach of it shall be punishable with fine which may extend to one hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to ten rupees for every day after the date of the first conviction during which the breach is proved to have been persisted in; and

(b) provide for—

(i) the seizure, forfeiture and removal of fixed engines erected, or used, or nets used, in contravention of the rule, and,

(ii) the forfeiture of any fish taken by means of any such fixed engine or net.

(6) The power to make rules under this section is subject to the condition that they shall be made after previous publication.

7. (1) Any police officer, or other person specially empowered by the Local Government in this behalf, either by name or as holding any office, for the time being, may, without an order from a Magistrate and without warrant, arrest any person committing in his view any offence punishable under section 4 or 5 or under any rule under section 6—

Arrest without warrant for offences under this Act.

(a) if the name and address of the person are unknown to him, and

(b) if the person declines to give his name and address, or if there is reason to doubt the accuracy of the name and address if given.

(2) A person arrested under this section may be detained until his name and address have been correctly ascertained :

Provided that no person so arrested shall be detained longer than may be necessary for bringing him before a Magistrate, except under the order of a Magistrate for his detention.

THE PUNJAB FISHERIES ACT, 1914.

CONTENTS.

SECTIONS.

1. Title and extent.
2. Meaning of terms.
- 2-A. Definitions.
3. Prohibition and licensing of fishing in selected waters by rules of Local Government.
4. Power to prohibit sale of fish.
5. Penalty.
6. Arrest without warrant for offences under the Act.
7. Saving of powers under Indian Fisheries Act.
8. Power to compound certain offences.

The Schedule.

THE PUNJAB FISHERIES ACT.

3

PASSED BY THE LIEUTENANT-GOVERNOR OF THE PUNJAB IN COUNCIL.

(Received the assent of His Honour the Lieutenant-Governor on the 15th January 1914 and that of His Excellency the Viceroy and Governor-General on the 29th January 1914, and was first published in the Gazette of the 13th February 1914.)

As amended by Punjab Act IV of 1923.

AN ACT TO EXTEND THE LAW RELATING TO FISHERIES IN THE PUNJAB.

WHEREAS it is expedient to extend the Law relating to Fisheries in the Punjab;

It is hereby enacted as follows:—

1. (1) This Act may be called the Punjab Fisheries Act, 1914. Title.

(2) It extends to the whole of the Punjab. Extent.

2. In this Act and the Rules thereunder unless there is something repugnant in the subject or context, the expressions "fish" and "private water" shall have the meanings assigned to them in section 3 of the Indian Fisheries Act, 1897. Meaning of terms.

IV of 1897.

Punjab Act
IV of 1923.

2-A. In this Act, unless there is anything repugnant in the subject or context— Definitions.

(1) "Fishery Officer" means any person whom the Local Government or any officer empowered by the Local Government in this behalf may from time to time appoint by name, or as holding an office, to carry out all or any of the purposes of this Act or to do anything required by this Act or any rule made thereunder to be done by a Fishery Officer.

Provided that no police officer below the rank of Sub-Inspector shall be so empowered.

(2) "Fishing offence" means an offence punishable under this Act or under any rule made thereunder.

3. (1) The Local Government may make rules for the purposes hereinafter in this section mentioned, and shall in such rules declare the waters, not being private waters, to which all or any of them shall apply. Prohibition and licensing of fishing in selected waters by rules of Local Government.

(2) The Local Government may by notification apply such rules or any of them to any private water with the consent in writing of the owner thereof and of all persons having for the time being any exclusive right of fishery therein.

(3) Such rules may—

- (a) prohibit fishing except under license and regulate the granting of such licenses, the fees payable therefor, and the conditions to be inserted therein;
- (b) prescribe reasons in which the killing of any fish of any prescribed species shall be prohibited; and
- (c) prescribe a minimum size of weight below which no fish of any prescribed species shall be killed.

(4) In making any rule under this section the Local Government may provide for—

- (a) the seizure, forfeiture and removal of any apparatus erected or used for fishing in contravention of the rules, and
- (b) the forfeiture of any fish taken by means of any such apparatus.

(5) The power to make rules under this section is subject to the condition that they shall be made after previous publication.

Power to prohibit sale of fish.

4. The Local Government may by notification prohibit in any specified areas the offering or exposing for sale or barter of any fish killed in contravention of any rule made under section 3 (3) (b) and (c) of this Act.

Penalty.

5. The breach of any rule made under section 3 or of any prohibition notified under section 4 shall be punishable with fine which may extend to one hundred rupees, and when the breach is a continuing breach, with a further fine which may extend to ten rupees for every day after the date of the first conviction during which the breach is proved to have been persisted in.

Arrest without warrant for offences under the Act.

6. (1) Any police officer, or other person specially empowered by the Local Government in this behalf, may without a warrant arrest any person committing in his view a breach of any rule made under section 3 or of any prohibition notified under section 4—

- (a) if the name and address of the person are unknown to him, and
- (b) if the person declines to give his name and address, or if there is reason to doubt the accuracy of the name and address, if given.

(2) A person arrested under this section may be detained until his name and address have been correctly ascertained:

Provided that no person so arrested shall be detained longer than may be necessary for bringing him before a Magistrate, except under the order of a Magistrate for his detention.

Saving of powers under Indian Fisheries Act.

7. Nothing in this Act shall be deemed to limit the powers of the Local Government to make rules under section 6 of the Indian Fisheries Act, 1897.

Punjab Act
IV of 1923.

8. (1) The Local Government may by notification empower a fishery officer by name or as holding an office—

Power to
compound
certain
offences.

- (a) to accept from any person concerning whom evidence exists which if unrebutted would prove that he has committed any fishing offence as described in the first column of the Schedule a sum of money by way of compensation for the offence with regard to which such evidence exists and on the payment of such sum to such officer such person if in custody shall be discharged and no further proceedings shall be taken against him;
- (b) when any property has been seized as liable to confiscation, to release the same without further payment, or on payment of the value thereof as estimated by such officer, and on the payment of such value such property shall be released and no further proceedings shall be taken in respect thereof.

(2) The sum of money acceptable as compensation under clause (a) of sub-section (1) shall in no case exceed the amount mentioned in the second column of the Schedule as the amount acceptable as compensation for the particular offence described in the first column of the schedule.

THE SCHEDULE.

(See section 8.)

Maximum amounts acceptable as compensation for certain fishing offences under section 8.

Description of offence.	Maximum amount acceptable as compensation.
1. Fishing with a net having a smaller mesh than that prescribed under the rules made under the Act	Rupees ten.
2. Fishing without a license	Rupees ten.
3. Killing fish of a size or weight less than the standard prescribed under this Act.	Rupees ten.
4. Killing any fish of a prohibited species during a close season.	Rupees ten.

Punjab Act
IV of 1923.

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PRINTED BY
THE SUPERINTENDENT, GOVERNMENT PRINTING, PUNJAB.
83 FC-3,500-3-1-34-SGPP Lahore.

CHECKED
2003-04

PUNJAB
LAND ADMINISTRATION ACTS

AND

**RULES HAVING THE FORCE OF LAW
THEREUNDER.**

VOLUME I, ACTS.



Lahore :

Printed by the Superintendent, Government Printing, Punjab.

1934.

Price : Rs. 2-8-0 or 3s 9d.