

THE PUNJAB MINOR CANALS ACT, 1905

(III OF 1905)

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SCHEDULE I

SCHEDULE II

TEXT

¹THE PUNJAB MINOR CANALS ACT, 1905

²(III of 1905)

[1st June, 1905]

An

Act

to make better provision for the control and management of minor canals in ³[certain areas of West Pakistan].

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 ⁴[certain areas of West Pakistan];

It is hereby enacted as follows:

CHAPTER I

PRELIMINARY

1. Short title and local extent.— (1) This Act may be called the Punjab Minor Canals Act of 1905.

⁵[(2) It extends to the Divisions of Rawalpindi, Sargodha, Lahore, Multan, Quetta and Kalat except the Tribal Areas].

2. Operation of Act.— (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.

(2) At any time after the commencement of this Act, the ⁶[Provincial Government] may, from time to time, by notification—

¹ For Statement of Objects and Reasons, see Punjab Gazette, 1903, Part V, page 100; for report of the Select Committee, see *ibid.*, 1905, Part V, page 7; for proceedings in Council, see *ibid.*, 1904, Part V, page 27 and *ibid.*, 1905, Part V, page 44.

² This Act received the assent of the Lieutenant-Governor of the Punjab on 7th April, 1905; that of the Governor-General on 12th May, 1905; and, was published in the Government Gazette, Punjab and Its Dependencies, Part V dated 1.6.1905, pages 117-135.

³ Substituted for the words “the Punjab” by the Punjab Minor Canals (West Pakistan Amendment) Act, 1963 (VIII of 1963); and published in the Gazette of West Pakistan (Extraordinary), dated 15.6.1963, pages 2627-2628, s.2.

⁴ *Ibid.*

⁵ *Ibid.*, s.3.

- (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 ⁷[Provincial 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 ⁸[Provincial Government], or
- (b) is, at the commencement of this Act, managed by ⁹[Servants of the State] 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 ¹⁰[by direction of the Provincial Government].

(3) The ¹¹[* * *] Canal and Drainage Act, 1873¹², shall not apply to any canal which is for the time being included under either Schedule I or Schedule II.

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

- (i) “Record-of-Rights” and “Revenue Officer” have the meanings assigned to them respectively in the ¹³Punjab Land Revenue Act, 1887;

⁶ Substituted, for the words, “Local Government”, by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 & Table of General Adaptations.

⁷ Substituted, for the words, “Local Government”, by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 & Table of General Adaptations.

⁸ Substituted, for the words “His Majesty for the purposes of the Province”, by the West Pakistan Laws (Adaptation) order, 1964; and published in the Gazette of West Pakistan (Extraordinary), dated 3.6.1964, pages 1805-1849, section 2(I) Schedule Part II, at serial No.2, which were previously Substituted, for the words “Government”, by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 3 and Schedule VI.

⁹ Substituted, for the words “Servants of the Crown”, by the West Pakistan Laws (Adaptation) Order 1964; and published in the Gazette of West Pakistan (Extraordinary), dated 3.6.1964, pages 1805-1849, section 2(I) Schedule Part II, at serial No.2, which were previously Substituted, for the words “Government Officers”, by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 3 and Schedule VI.

¹⁰ Substituted, for the words “by direction of Government”, by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 3 and Schedule VI.

¹¹ The words, “Northern India”, omitted by the Punjab Laws (Adaptation, Revision and Repeal) Act, 1954 (XV of 1955) ; and published in the Punjab Gazette (Extraordinary), dated 21.1.1955, pages 87-108, section 2, Schedule I, Part II.

¹² VIII of 1873.

¹³ XVII of 1887, subsequently replaced by the Punjab Land Revenue Act, 1967.

- (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 ¹⁴[any portion of a canal or] 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 a 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;
- (xi) “Subsidiary works” means 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 regulating of the irrigation therefrom or for the prevention of floods or for the provision of proper drainage, in connection with such irrigation, and includes also the land required for such works;
- (xii) “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

¹⁴ Inserted by the Punjab Minor Canals (Amendment) Act, 1952 (XVII of 1952); and published in the Punjab Gazette (Extraordinary), dated 7.2.1952, pages 125-126, section 2.

subsidiary works connected with such channel except the sluice or outlet through which water is supplied to such channel;

- (xiii) "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;
- (xiv) "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-DUES

4. Prohibition against construction of canals without permission.— When the ¹⁵[Provincial 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:

Provided that nothing in this section shall apply to the construction of a water-course from an existing canal.

5. Application for permission and procedure thereon.— (1) Any person desiring to construct a canal intended to be fed from any source of supply which has been notified by ¹⁶[Provincial Government] under section 4, may apply, in writing, to the Collector, for the permission prescribed in that section.

(2) Every application under sub-section (1) shall be in such form and shall contain such particulars as the ¹⁷[Provincial Government] may prescribe in that behalf.

6. Power of Collector to construct canal from notified source of supply.— (1) When a source of supply has been notified by¹⁸[Provincial 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.

(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

¹⁵ Substituted, for the words "Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 3 and Schedule VI.

¹⁶ Substituted, for the words "Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 3 and Schedule VI.

¹⁷ Substituted, for the words, "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

¹⁸ Substituted, for the words "Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 3 and Schedule VI.

overruled, 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 ¹⁹[Provincial Government] may prescribe and in accordance with the rules made by such Government.

7. Power to prohibit the unauthorised construction of and to close unauthorised canal.— (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 construction which would materially extend the area irrigable by 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 ²⁰[Provincial 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.

8. Water-dues.— (1) Subject to the conditions, if any, imposed or agreed to by the ²¹[Provincial 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

¹⁹ Substituted, for the words, "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

²⁰ *Ibid.*

²¹ *Ibid.*

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 exceeding 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. This chapter applicable only to canals under Schedule I.— Except as the ²²[Provincial 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.

10. General powers of Collector.— (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 ²³[Provincial 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 authorised by the ²⁴[Provincial 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 ²⁵[Provincial 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 canal shall be, or be deemed to have

²² Substituted, for the words, "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

²³ *Ibid.*

²⁴ Substituted, for the words, "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

²⁵ *Ibid.*

been acquired under the ²⁶Indian Limitation Act, 1887, nor shall ²⁷[Provincial Government] be bound to supply any person with water.

11. Power of Government to suspend or extinguish rights in or over any scheduled canal on payment of compensation.— (1) The ²⁸[Provincial 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.

(2) In every such case the ²⁹[Provincial Government] shall cause to be paid to the person whose right is suspended or extinguished, 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.

12. Power to enter and survey, etc.— The Collector or other person acting under the general or special orders of the Collector may enter upon any land 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 measuring the land 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

²⁶ India Act XV of 1877, subsequently replaced by the Limitation Act, 1908 (IX of 1908).

²⁷ Substituted, for the words "Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 3 and Schedule VI.

²⁸ *Ibid.*, for the words "Local Government"

²⁹ *Ibid.*

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.

13. Power to enter for repairs and to prevent accidents.— 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. 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.— (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 ³⁰[Provincial 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.

(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 the provision of section 44.

15. Supply of water through intervening water-course.— 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 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 inquiry on such day, the Collector shall determine whether and on what conditions the said supply shall be conveyed through such 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

³⁰ Substituted, for the words "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

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. Application for construction of new water-course.— Any person desiring the construction of a new water-course may apply in writing to the Collector, stating—

- (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. Procedure of Collector thereupon.— If the Collector considers—

- (i) that the construction of such water-course is expedient, and
- (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 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.

18. Application for transfer of existing water-course.— 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 notice of the application in every village affected.

19. Inquiry into, and determination of, objections to construction or transfer of water-courses.— (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. Expenses to be paid by applicant for construction or transfer of water-course before receiving occupation.— 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.

Procedure in fixing compensation.— 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, award such compensation in the form of a rent charge payable in respect of the land or water-course occupied or transferred.

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, and shall, when recovered, be paid by him to the person entitled to receive the same.

21. Conditions binding on applicant placed in occupation.— (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: —

(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 purposes 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 rents 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.

22. Construction of outlets from canals by Collector.— 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.

23. Power to convert several water-courses running for a long distance side by side into one water-course.— (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.

24. Procedure applicable to occupation for extensions and alterations.— 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.

25. Costs of executing works under section 22, or section 23, by whom payable.— In every case under section 22 or section 23, the cost of executing or completing the works shall be payable by such person or persons deriving benefit from the water-course as the Collector may in each case determine.

26. Power of ³¹[Provincial Government] to direct supply of labour by irrigators. — The ³²[Provincial 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 record-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. Powers of Collector upon issue of notification under section 26.— 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

³¹ Substituted, for the words "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

³² Substituted, for the words "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

- 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 ³³[eight annas] for each day's labour of each of the labourers in respect of whom default has occurred.

28. Power to prepare record for canal.— (1) The Collector shall, whenever the ³⁴[Provincial 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, re-construction and working of mills, and the conditions on which such rights are enjoyed; and
- (d) such other matters as the ³⁵[Provincial 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 or 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 ³⁶[the Provincial Government] by this Act.

(3) When a record showing all or any of the matters enumerated in subsection (1) has been framed at any settlement of the land revenue already sanctioned by ³⁷[the Provincial 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.

³³ Now equivalent to 'fifty paises'.

³⁴ Substituted, for the words "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

³⁵ Substituted, for the words, "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

³⁶ Substituted, for the words "Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 3 and Schedule VI.

³⁷ Substituted *ibid.*, for the words "the Government".

(5) The provisions of Chapter IV of the ³⁸Punjab Land Revenue Act, 1887, shall, so far as may be, apply to the preparation and revision of every such record.

Water-rates

29. Levy of water-rates.— (1) Subject to the terms of any agreement made by it with the owners or irrigators, the ³⁹[Provincial Government] may, by notification, direct that a rate or rates shall be levied for the use of water of a canal in an authorised manner.

(2) The ⁴⁰[Provincial Government] may, by notification, also impose a special rate for water obtained or used without authority or in an unauthorised 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 ⁴¹[Provincial 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 ⁴²[Provincial Government] may, by general or special rule, direct.

30. Liability when person using unauthorisedly cannot be identified.— If water supplied through a water-course be used in an unauthorised 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. Liability when water runs to waste.— If water supplied through a water-course be suffered to run to waste, and if after enquiry 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.

32. Charges recoverable in addition to penalties.— All charges for the

³⁸ XVII of 1887, subsequently replaced by the Punjab Land Revenue Act, 1967.

³⁹ Substituted, for the words "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

⁴⁰ Substituted, for the words "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

⁴¹ *Ibid.*

⁴² *Ibid.*

unauthorised 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 30 or section 31 shall be decided by the Collector.

CHAPTER IV

PROVISIONS APPLICABLE TO CANALS INCLUDED UNDER SCHEDULE II

33. This chapter applicable only to canals under Schedule II.— Except as the ⁴³[Provincial Government] may otherwise direct under section 69 the provisions of this chapter shall apply only to canals for the time being included under Schedule II.

34. Power of the Collector, in certain cases, to declare or appoint a manager of a canal.— 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.

35. Power of ⁴⁴[Provincial Government] to apply the provisions of section 28 to any canal.— The ⁴⁵[Provincial 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.

36. Power to assume control or management, or both, of a canal.— (1) It shall be lawful for the ⁴⁶[Provincial Government], by notification, to assume the control or management, or both, of any 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 enquiry, the ⁴⁷[Provincial Government] is satisfied that the control

⁴³ Substituted, for the words "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*

⁴⁶ Substituted, for the words, "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

⁴⁷ *Ibid.*

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 ⁴⁸[Provincial 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 owners for the income and expenditure thereof and may at any time restore the canal to the owner.

37. Right of owner upon such assumption, to demand that the canal shall be acquired by the Government.— When the control or management, or both, of a canal shall be assumed by the ⁴⁹[Provincial 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.

38. Power to acquire canal on demand of the owner.— On receipt of notice under section 37 –the ⁵⁰[Provincial 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.

39. Power to fix the limits of irrigation and water-rates and to regulate the distribution of water.— The ⁵¹[Provincial 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-

⁴⁸ Substituted, for the words, "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

⁴⁹ *Ibid.*

⁵⁰ Substituted, for the words, "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

⁵¹ *Ibid.*

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 ⁵²[Provincial Government] exercised his powers as such in an arbitrary or inequitable manner he shall not be entitled to compensation under this section.

40. Collection, in certain cases, of water-rates of a canal by the ⁵³[Provincial Government].— (1) The ⁵⁴[Provincial 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, —

- (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 three per cent of the amount collected.

(2) During the period for which the ⁵⁵[Provincial 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. This chapter applicable to all canals.— 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.

42. Consent or decision of the owner how to be determined.— 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 owner 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.

⁵² *Ibid.*

⁵³ Substituted, for the words, "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

⁵⁴ Substituted, for the words, "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

⁵⁵ Substituted, for the words, "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

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. Settlement of disputes.— (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.

(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, 1887⁵⁶, and the provision of that Act regarding appeals, revisions and reviews shall be applicable.
- (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.

44. Acquisition of land for canals.— (1) Any person who has obtained the permission of the ⁵⁷[Provincial 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 ⁵⁸[Provincial Government].

⁵⁶ India Act XVI of 1887.

⁵⁷ Substituted, for the words "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

⁵⁸ Substituted, for the words "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

(3) If, in the opinion of the ⁵⁹[Provincial 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, 1894⁶⁰, and direct the necessary action to be taken thereunder.

45. Power to acquire canal by consent or otherwise.— Whenever it appears to the ⁶¹[Provincial Government] expedient in the public interest to acquire any canal, the ⁶²[Provincial 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 ⁶³[one month] from the date thereof.

46. Notice as to claims for compensation.— 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 ⁶⁴[Provincial 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.

47. Inquiry into claims.— (1) The Collector shall proceed to inquire into any such claim 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 ⁶⁵[already earned by] the owner.

(2) **Limitation of claims.**— 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. Vesting of canal in the ⁶⁶[Provincial Government].— (1) The ⁶⁷[Provincial Government] shall by notification declare the day on which a canal has been acquired

⁵⁹ *Ibid.*

⁶⁰ I of 1894.

⁶¹ Substituted, for the words, "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937 ; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

⁶² *Ibid.*

⁶³ Substituted, for the words "six months", by the Punjab Minor Canals (Amendment) Act, 1952 (XVII of 1952); and published in the Punjab Gazette (Extraordinary), dated 7.2.1952, pages 125-126, section 3.

⁶⁴ Substituted, for the words "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

⁶⁵ Substituted for the word "of" by the Punjab Minor Canals (Amendment) Act, 1952 (XVII of 1952); and published in the Punjab Gazette (Extraordinary), dated 7.2.1952, pages 125-126, section 4.

⁶⁶ Substituted, for the words "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

⁶⁷ *Ibid.*

by it ⁶⁸[,] ⁶⁹[and notwithstanding that compensation has not been assessed under section 47 or paid to the claimant, the canal shall be deemed to have been acquired on the day so declared].

(2) Subject to the award of compensation to the owner or person interested in the said canal, when the ⁷⁰[Provincial Government] acquires a canal,—

- (a) the right, title and interest therein, of the owner thereof shall forthwith cease and determined;
- (b) such canal, subject to any right to take water for irrigation which any person may have, shall forthwith vest in and be the absolute property of ⁷¹[Provincial Government].

49. 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.— The ⁷²[Provincial 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 enquiry 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.

50. Power to remove obstruction after publication of notification, and payment of compensation.— (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.

- (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.

⁶⁸ Substituted, for full-stop, by the Punjab Minor Canals (Amendment) Act, 1952 (XVII of 1952); and published in the Punjab Gazette (Extraordinary), dated 7.2.1952, pages 125-126, section 4.

⁶⁹ Added *ibid.*, section 5.

⁷⁰ Substituted, for the words "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

⁷¹ Substituted, for the words "Crown for the purposes of Province", by the West Pakistan Laws (Adaptation) Order 1964, section 2(1) Schedule Part II, which were previously Substituted, for the words "the Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 3 and Schedule VI.

⁷² Substituted, for the words "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

(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. Power of the Collector to regulate flow of water and prohibit or remove obstructions.— When the ⁷³[Provincial 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 authorise the Collector to exercise such power on its behalf in accordance with such rules as it may prescribe. A Collector so 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 ⁷⁴[Provincial Government] is empowered by section 49 to take after enquiry through the Collector. Such authority may on every occasion be exercised without the publication of any further notification in the ⁷⁵[Official Gazette].

52. Power as to the construction and maintenance of works in respect of canals under Schedule II.— (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-course sluices, out-lets, 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 or 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

⁷³ Substituted, for the words “Local Government”, by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

⁷⁴ *Ibid.*

⁷⁵ Substituted *ibid.*, for the word “Gazette”.

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. Powers as to construction and maintenance of works in respect of canals under Schedule I.— 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 ⁷⁶[Provincial 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. Power to take possession and to construct works in cases of emergency.— (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.

⁷⁶ Substituted, for the words "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

55. Assessment of compensation.— ⁷⁷[(1)] 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, 1894⁷⁸, and the provisions of that Act ⁷⁹[except sections ⁸⁰[18 to 22, 25 to 28], subsection (3) of section 48 and section 54] shall, as far as may be, be applicable to all proceedings under this section.

⁸¹[(2) An appeal shall lie to the Commissioner from an award made by the Collector, and to the ⁸²[Board of Revenue], from the order passed thereon by the Commissioner:

Provided that no appeal shall lie to the ⁸³[Board of Revenue], if the order of the Collector is confirmed on appeal by the Commissioner].

56. Compensation for right of user or in the form of a supply of water.— 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.

57. Apportionment and recovery of the cost of land acquired or works executed.— (1) When any land is acquired under the provision 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

⁷⁷ Section 55, renumbered as sub-section (1) of that section by the Punjab Minor Canals (Amendment) Act, 1952 (XVII of 1952) ; and published in the Punjab Gazette (Extraordinary), dated 7.2.1952, pages 125-126, section 6.

⁷⁸ India Act I of 1894.

⁷⁹ Substituted for the words “regarding inquiries and awards by the Collector, references to the Civil Courts and procedure thereon, apportionment of compensation, payment and appeals” by the Punjab Minor Canals (Amendment) Act, 1952 (XVII of 1952) ; and published in the Punjab Gazette (Extraordinary), dated 7.2.1952, pages 125-126, section 6.

⁸⁰ Substituted for “18 to 28, both inclusive.” by the Punjab Minor Canals (Amendment) Ordinance 1985 (XII of 1985); and published in the Punjab Gazette (Extraordinary), dated 23.2.1985, s.2.

⁸¹ Added by the Punjab Minor Canals (Amendment) Act, 1952 (XVII of 1952); and published in the Punjab Gazette (Extraordinary), dated 7.2.1952, pages 125-126, section 6.

⁸² Substituted for the words “Financial Commissioner, Revenue”, by the West Pakistan (Adaptation and Repeal of Laws) Act, 1957 (XVI of 1957); and published in the Gazette of West Pakistan (Extraordinary), dated 25.7.1957, pages 709-789 section 3 Schedule III (14.10.1955).

⁸³ *Ibid.*

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 costs 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.

58. Power to regulate mills.— (1) The ⁸⁴[Provincial 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.

59. Application of sections 13 to 16 of Land Revenue Act, 1887⁸⁵.— Except in so far as a contrary intention is expressed, sections 13 to 16 (both inclusive) of the ⁸⁶Punjab Land Revenue Act of 1887 shall apply to all proceedings under this Act.

60. Exclusion of jurisdiction of Civil Court except under Land Acquisition Act.— 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 ⁸⁷[Provincial Government] or any Revenue Officer or Revenue Court exercises any powers vested in it or him by or under this Act.

61. Power to appoint officers to exercise functions under this Act.— (1) The ⁸⁸[Provincial 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, ⁸⁹[Board of Revenue] or such Government.

⁸⁴ Substituted, for the words "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

⁸⁵ India Act XVII of 1887.

⁸⁶ XVII of 1887, subsequently replaced by the Punjab Land Revenue Act, 1967.

⁸⁷ Substituted, for the words "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

⁸⁸ *Ibid.*

⁸⁹ Substituted, for the words "Financial Commissioner", by the West Pakistan (Adaptation and Repeal of Laws) Act, 1957 (XVI 1957); and published in the Gazette of West Pakistan (Extraordinary), dated pages 25.7.1957, section 3 Schedule III (14.10.1955).

(2) Such appointment 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 ⁹⁰[Provincial Government] shall have and exercise over the ⁹¹[Board or Revenue], the Commissioner and the Collector, and the ⁹²[Board of Revenue], 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. Powers of Collector in certain proceedings under the Act.— For the purposes of every enquiry 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, 1882⁹³, and every such inquiry shall for the purposes of the ⁹⁴[Pakistan] Penal Code⁹⁵, be deemed to be a judicial proceeding.

63. Permission to owners and parties interested in any canal to objection in certain cases.— 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.

64. Mode of serving notices and making proclamations.— 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 ⁹⁶Punjab Land Revenue Act, 1887.

65. Bar of compensation where not expressly allowed.— Save as otherwise expressly provided in this Act, no person shall be entitled to recover any compensation for anything at any time done in good faith intended to be done in exercise of any power conferred by this Act or by the rules made there-under.

⁹⁰ Substituted, for the words "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, See Article 4 and Table of General Adaptations.

⁹¹ Substituted, for the words "Financial Commissioner", by the West Pakistan (Adaptation and Repeal of Laws) Act, 1957 (XVI 1957); and published in the Gazette of West Pakistan (Extraordinary), dated pages 25.7.1957, section 3 Schedule III (14.10.1955).

⁹² Substituted, for the words "Financial Commissioner", by the West Pakistan (Adaptation and Repeal of Laws) Act, 1957 (XVI 1957); and published in the Gazette of West Pakistan (Extraordinary), dated pages 25.7.1957, section 3 Schedule III(14.10.1955).

⁹³India XIV of 1882.

⁹⁴ Substituted, for the word "Indian", by the Punjab Laws (Adaptation, Revision and Repeal) Act, 1954 (XV of 1955); and published in the Punjab Gazette (Extraordinary), dated 21.1.1955, pages 87-108, section 2, Schedule I, Part II.

⁹⁵ India Act XLV of 1860.

⁹⁶ India Act XVII of 1887, subsequently replaced by the Punjab Land Revenue Act, 1967.

66. Protection of persons acting under the Act.— 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.

67. Government to be party to certain suits and proceedings.— (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 ⁹⁷[Provincial Government] a party to the same.

(2) **Bar of other suits against State.**— Save as provided in sub-section (1), no suit shall lie ⁹⁸[against the ⁹⁹[Provincial Government]] in respect of anything done by the Collector or by any person acting under the orders of the ¹⁰⁰[Provincial Government], in the exercise of any power by this Act conferred on such Collector ¹⁰¹[or the Provincial Government].

68. Power to recover water-dues, water-rates and other charges by revenue process.— 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.

69. Powers as regards canals, creeks, situate partly without the limits of the Punjab.— Any or all of the powers exercisable by the ¹⁰²[Provincial 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 ¹⁰³[the areas to which this Act applies] 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 ¹⁰⁴[Provincial Government] may by

⁹⁷ Substituted, for the words "Secretary of State for India in Council", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 3 and Schedule VI.

⁹⁸ Substituted *ibid.*, for the words "against the Government".

⁹⁹ Substituted for the word "Crown" by the West Pakistan Laws (Adaptation) Order 1964; and published in the Gazette of West Pakistan (Extraordinary), dated 3.6.1964, pages 1805-1849, section 2(l) Schedule Part II, at serial No.2.

¹⁰⁰ Substituted, for the words, "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

¹⁰¹ Substituted for the words "or Government" by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

¹⁰² Substituted, for the words, "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

¹⁰³ Substituted for the words "the Punjab" by the Punjab Minor Canals (West Pakistan Amendment) Act, 1963 (VIII of 1963); and published in the Gazette of West Pakistan (Extraordinary), dated 15.6.1963, pages 2627-2628, s.4.

¹⁰⁴ Substituted, for the words "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

notification, and notwithstanding the provisions of section 2, declare what sections of this Act shall be applicable thereto.

70. Powers exercisable in cases of urgency with regard to canals situate beyond the Punjab.— In respect of any canal situate beyond the limits of ¹⁰⁵[the areas to which this Act applies] the ¹⁰⁶[Provincial 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 authorised officer within the limits of ¹⁰⁷[the areas to which this Act applies] for all or any of the purposes of such canal.

71. Offences under the Act.— Whoever without proper authority and voluntarily does any of the acts following, that is to say,—

- (1) damages, alters, enlarges, or obstructs any canals;
- (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 authorised distribution of the water therefrom or uses such water in an unauthorised 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;

¹⁰⁵ Substituted for the words “the Punjab” by the Punjab Minor Canals (West Pakistan Amendment) Act, 1963 (VIII of 1963); and published in the Gazette of West Pakistan (Extraordinary), dated 15.6.1963, pages 2627-2628, s.4.

¹⁰⁶ Substituted, for the words “Local Government”, by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

¹⁰⁷ Substituted by the Punjab Minor Canals (West Pakistan Amendment) Act, 1963 (VIII of 1963) ; and published in the Gazette of West Pakistan (Extraordinary), dated 15.6.1963, pages 2627-2628, s.4.

shall be liable on conviction before a Magistrate of such class as the ¹⁰⁸[Provincial Government] directs in this behalf, to a fine not exceeding fifty rupees or to imprisonment not exceeding one month or to both.

72. Power to arrest without a warrant.— Any person incharge of or employed upon any canal managed by ¹⁰⁹[servants of the State] 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. Definition of 'canal' for purposes of sections ¹¹⁰[71 and 72].— 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. Power to make rules.— (1) The ¹¹¹[Provincial Government] may make rules, consistent with this Act, regulating any matter in regard to which any power is, by this Act, conferred upon the ¹¹²[Provincial Government], or upon any ¹¹³[servant of the State], 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.

¹⁰⁸ Substituted, for the words "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

¹⁰⁹ Substituted, for the words "the Crown", by West Pakistan Laws (Adaptation) Order, 1964; and published in the Gazette of West Pakistan (Extraordinary), dated 3.6.1964, pages 1805-1849, section 2(I) Schedule Part II, at serial No.2, which were previously Substituted, for the words "Government officers", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 3 and Schedule VI.

¹¹⁰ Misprinted in the original Gazette as "65 and 66".

¹¹¹ Substituted, for the words "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

¹¹² *Ibid.*

¹¹³ Substituted, for the words "the Crown", by West Pakistan Laws (Adaptation) Order 1964; and published in the Gazette of West Pakistan (Extraordinary), dated 3.6.1964, pages 1805-1849, section 2(I) Schedule Part II, at serial No.2. Earlier substituted for "of Government" by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 3 and Schedule VI.

SCHEDULE I

Canals.	District
¹¹⁴ [* * * * *]	
Hajiwah	{ Multan ¹¹⁵ Montgomery
Kurram Canals	
Chachali	
Adwala	
..	
Baroch	
..	
Lunda	
..	
Mitha	
	Mianwali. Rakka
	..
Jaba	..
Vahi (including Truppi and Golar)	
Trimmun	
..	

¹¹⁴ Entries from "Hissar—Rangoi" to "Gurdaspur—Kiran", which related to canals now in India, omitted by the Punjab Laws (Adaptation, Revision and Repeal) Act, 1954 (XV of 1955); and published in the Punjab Gazette (Extraordinary), dated 21.1.1955, pages 87-108, section 2, Schedule I, Part II.

¹¹⁵ Now 'Sahiwal'.

Bhati	Hill	}	
Torrent	..		
Kanwan Hill Torrent			
Sangarh ditto			
..			
Mahoi ditto			
..			
Vehoa ditto			
Sori ditto			
..			
Vador	ditto	}	Dera Ghazi Khan
..			
Sakhi Sarwar Hill Torrent			
..			
Mithawan ditto	..		
Khosra ditto			
..			
Kaha ditto			
..			
Chachar	ditto		
..			
Chezgi ditto			
..			
Pitok ditto			

..

Northern Sori ditto

..

Southern Sori ditto

..

SCHEDULE II

Canal	District
116[* * * * * * * *]	
Piranwala ..	<div style="display: flex; justify-content: center; align-items: center;"> <div style="font-size: 4em; margin-right: 10px;">}</div> <div style="text-align: left;"> <p>Left bank of Jhelum</p> <p>Shahpur.</p> <p>Right bank of Chenab</p> <p>Jhelum.</p> </div> </div>
Amir Chandwala ..	
Nunanwala ..	
Sultan Muhammadwala ..	
Nabbiwala ..	
Chaharmiwala ..	
Malik Sahib Khanwala ..	
Mekananwala ..	
Malik Jahan Khanwala ..	
Sarfraz Khanwala ..	
Jhammatanwala ..	
Nathuwala ..	
Makhdumanwala ..	
Daimwala ..	
Muhkamdinwala ..	
Ahmadabad ..	

¹¹⁶ Entries from "Gurgaon—Chakarpur Bund" to "Hoshiarpur—Natha Sing of Jhandwal's Canal" which related to canals now in India, omitted by the Punjab Laws (Adaptation, Revision and Repeal) Act, 1954 (XV of 1955); and published in the Punjab Gazette (Extraordinary), dated 21.1.1955, pages 87-108, section 2, Schedule I, Part II.