



The Land Preservation Act , 1900

Act 2 of 1900

Keyword(s):

Land, Cho, Tree, Person interested, Right-holder, Erosion

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THE PUNJAB LAND PRESERVATION ACT, 1900

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THE PUNJAB LAND PRESERVATION ACT, 1900(PUNJAB ACT NO. II OF 1900)¹

Amended, repealed or otherwise affected by—

- (i) Punjab Act No. IV of 1905².
- (ii) Punjab Act No. VII of 1926³.
- (iii) Punjab Act No. VIII of 1926⁴.
- (iv) Government of India (Adaptation of Indian Laws) Order, 1937.
- (v) Punjab Act XI of 1942.⁵

1. For Statement of Objects and reasons, see Punjab Gazette, 1899, Part V-A P. 13, for report of the Select Committee, *see ibid*, 1900, Part V, p. 1. The Act is in force only in merged areas by virtue of section 88 of the Punjab Reorganisation Act, 1966, it was extended to erstwhile Pepsu areas, by Punjab Act, 18 of 1958.

2. For Statement of Objects and Reasons, *see* Punjab Gazette 1905., part V, p. 137.

3. For Statement of Objects and Reasons, *see* Punjab Gazette, 1926, Part V, p. 28 ; for report of the Select Committee, *see ibid*, 1926, Part V, p. 112—114. It came into force on the 16th August, 1926.

4. For Statement of Objects and Reasons, *see* Punjab Gazette, 1926, Part I, p. 544. It came into force on the 16th August, 1926.

5. For Statement of Objects and Reasons, *see* Punjab Gazette, 1942, Extra. p. 255.

- (vi) Punjab Act No. IV of 1944¹.
- (vii) The Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.
- (viii) Punjab Act No. VII of 1950².
- (ix) Adaptation of Laws Order, 1950.
- (x) Adaptation of Laws (Third Amendment) Order, 1951.
- (xi) Punjab Act No. 1 of 1951³.
- (xii) A.O. 1968, published in R.H.P., dated the 1st February, 1969, p. 158—161.
- (xiii) A.O. 1973, published in R.H.P. Extra., dated the 20th January, 1973, p. 91—112.

⁴*****]

An Act to provide for the better preservation and protection of certain portions of the territories of ⁵[Punjab] ⁶*****].

*****]

It is hereby enacted as follows :

PRELIMINARY

1. Short title, extent and commencement. (1) This Act may be called the Punjab Land Preservation ⁷[*****] Act, 1900, and

⁸(2) It shall extend to ⁹the territories specified in sub-section (1) of section 5 of the Punjab Re-organisation Act, 1966].

¹⁰(3) It shall come into force at once.

1. For Statement of Objects and Reasons, see Punjab Gazette, 1943, Extra . 45-46
2. For Statement of Objects and Reasons, see Punjab Gazette, 1950, Extra., p. 159.
3. For Statement of Objects and Reasons, see Punjab Gazette, 1951, Extra., p. 00.
4. The preamble was omitted by Punjab Act XI of 1942, sec. 3.
5. Subs. for the words "East Punjab" (which had been inserted for the word "Punjab" by Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948 [by Adaptation of Laws (Third Amendment) Order, 1951.]
6. The words "situate within or adjacent to the Shiwalik mountain range" omitted by Punjab Act XI of 1942, sec. 2.
7. The brackets and words "(chos)" omitted by Punjab Act IV of 1944, sec. 2(a).
8. Sub-section (2) inserted by Punjab Act XI of 1942, sec. 4(a). It was substituted by Punjab Act IV of 1944, sec. 2(b). The sub-section thus substituted, was substituted again by the present sub-section by Punjab Act No. I of 1951, sec. 2.
9. Subs. for the words "the whole of the State of Punjab" by A.O. 1968 (to be effective from 1-11-1966).
10. The old sub-section (2) was renumbered as sub-section (3) by Punjab Act XI of 1942, sec. 4(a).

2. Definition.—In this Act unless a different intention appears from the subject or context.—

- (a) the expression “land” means land within any ¹[* *] 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 ;
- (b) the expression “cho” means a stream or torrent flowing through or from the Shiwalik mountain range within ²[the territories specified in sub-section (1) of section 5 of the Punjab Reorganisation Act 1966];
- (c) the expression “tree”, “timber”, “forest-produce” and “cattle”, respectively, shall have the meanings severally assigned thereto in section 2 of the Indian Forest Act, ³[1927] ;
- (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 ⁴[* *] ;
- (e) the expression “Deputy Commissioner” includes any officer or officers at any time specially appointed by the ⁵[State Government] to perform the functions of a Deputy Commissioner under this Act ;
- ⁶[(f) the expression “rightholder” includes —
 - (i) persons not being tenants or mortgagees having rights to or in land ; and
 - (ii) persons having rights of collection of forest produce or of grazing or pasture ; and
- (g) the expression “erosion” includes the removal or displacement of earth, soil, stones or other materials by the action of wind or water].

1. The word ‘local, omitted by Punjab Act IV of 1944, sec. 3(a).

2. Subs. for the word “Punjab” [which was subs. for the words “East Punjab” by Adaptation of Laws (Third Amendment) Order, 1951] by A.O.1968 (to be effective from 1-11-1966). The words “The Punjab” had been substituted by the words “East Punjab” by G.G.O. 40 of 1948.

3. Subs. for the figures “1878” by Punjab Act IV of 1944, sec. 3(b). See the Indian Forest Act, 1927 (XVI of 1927), sec. 2.

4. The word “and” omitted by Punjab Act IV of 1944, sec. 3(c).

5. Subs. for the expression “Central Government” (which was subs. for “State Government” by A.O. 1968) by A.O. 1973. The word “State” was subs. for the word “Provincial” by Adaptation of Laws Order, 1950.

6. Added by Punjab Act IV of 1944, sec. 3(d).

NOTIFICATION AND REGULATION OF AREAS

¹3. **Notification of Areas.**—Whenever it appears to the ²[State Government] that it is desirable to provide for the conservation of sub-soil water or the prevention of erosion in any area subject to erosion or likely to become liable to erosion, such Government may by notification make a direction accordingly.]

4. Power to regulate, restrict or prohibit, by general or special order within notified areas, certain matters.—In respect of areas notified under section 3 generally or the whole or any part of any such area, the ²[State Government] may by general or special order temporarily ³[* * * *] regulate, restrict or prohibit—

- (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 sub-section, of any forest produce other than grass, save for bonafide domestic or agricultural purposes ⁴[of right holder in such area] ;
- (d) the setting on fire of trees, timber or forest produce ;
- (e) the admission, herding, pasturing or retention of sheep, ⁵[goats or camels] ;
- (f) the examination of forest-produce passing out of any 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 ⁵[goats or camels] or to cultivate or erect buildings therein and the production and return of such permits by such persons.

1. Subs. for the old section by Punjab Act XI of 1942, sec. 5.

2. Subs. for the expression "Central Government" (which was subs. for "State Government" by A.O. 1968) by A.O. 1973. The word "State" was subs. for the word "Provincial" by Adaptation of Laws Order, 1950.

3. The words "or permanently" were omitted by Punjab Act VII of 1926, Sec. 2.

4. Added by Punjab Act IV of 1944, sec. 4(a).

5. Subs. for the words "or goats" by Punjab Act IV of 1944, sec. 4 (c).

5. Power in certain cases to regulate, restrict or prohibit, by special order, within notified areas, certain further matters.—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 ¹[State Government] may, by special order, temporarily ²[* *] 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 sub-section of any forest-produce ³[for any purposes] ; and
- (d) the admission, herding, pasturing or retention of cattle generally other than sheep ⁴[goats and camels] or of any class or description of such cattle.

⁵**5A. Power to require execution of works and taking of measures.**—In respect of areas notified under section 3 generally or the whole or any part of any such area, the State Government may, by general or special order, direct—

- (a) the levelling, terracing, drainage and embanking of fields ;
- (b) the construction of earth works in fields and ravines ;
- (c) the provision of drains for storm water ;
- (d) the protection of land against the action of wind or water ;
- (e) the training of streams ; and
- (f) the execution of such other works and the carrying out of such other measures as may, in the opinion of the ¹[State Government], be necessary for carrying out the purposes of this Act].

1. Subs. for the expression “Central Government” (which was subs. for “State Government” by A.O. 1968) by A.O. 1973. The word “State” was subs. for the word “Provincial” by Adaptation of Laws Order, 1950.

2. The words ‘or permanently’ were omitted by Punjab Act VII of 1926, sec. 3.

3. Subs. for the words “for bonafide domestic or agricultural purposes” by Punjab Act IV of 1905.

4. Subs. for the words “and goats” by Punjab Act IV of 1944, sec. 4.

5. Ins. by Punjab Act IV of 1944, sec. 5.

6. Necessity for regulation, restriction or prohibition to be recited in the order under sections 4, 5 or 5A. Publication of order.—Every order made under ¹[sections 4, 5 or 5A] shall be published in the ²[Official Gazette] and shall set forth, that the ³[State Government] is satisfied after due inquiry, that regulations, restrictions, ⁴[prohibitions or directions] contained in the order are necessary for the purpose of giving effect to the provisions of this Act.

7. Proclamation of regulations, restrictions and prohibitions and admission of claims for compensation for rights which are restricted or prohibited.—

(1) When, in respect of any ⁵[**] area, a notification has been published under section 3, and —

- (a) upon such publication any general order, made under section 4 ⁶[or section 5-A] becomes applicable to such area, or
- (b) any special order under ⁷[sections 4, 5 or 5-A], is made in respect of such area ;

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 ⁸[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 ⁹[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 restricted 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.

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1. Subs. for "section 4 or section 5" by Punjab Act IV of 1944, sec. 7(a).
 2. Subs. for the word "Gazette" by Government of India (Adaptation of Indian Laws) Order, 1937.
 3. Subs. for the expression "Central Government" (which was subs. for "State Government" by A.O. 1968) by A. O. 1973. The word "State" was subs. for the word "Provincia" by Adaptation of Laws Order 1950.
 4. Subs. for the words 'or prohibition' by Punjab Act IV of 1944, sec. 7(a).
 5. The word "Local" was omitted by Punjab Act IV of 1944, sec. 8(a).
 6. Ins. by Punjab Act IV of 1944, sec. 8(b).
 7. Subs. for "section 4 or section 5" by Punjab Act of 1944, sec. 8(c)
 8. Subs. for the word "extinguish" by Punjab Act VII of 1926, sec. 4.
 9. Subs. for the words "any such rights are so restricted or extinguished" by Punjab Act VII of 1926, sec. 4.

1[7-A. Power to fix time within which work to be executed, etc.—

(1) When an order has issued under section 5-A, the Deputy Commissioner may by notice require the owner or occupier of the land to execute such works or take such measures as may be specified in the notice.

(2) Every such notice shall state the time within which the works are to be executed or measures are to be taken.

(3) A person aggrieved by an order contained in such a notice as aforesaid may, within thirty days from the service of such notice or within such longer period as the Deputy Commissioner may allow in this behalf, serve a notice of his objections on the Deputy Commissioner in such manner as may be provided by the rules made under this Act.

(4) If and in so far as an objection under this section is based on the ground of some informality, defect or error in or in connection with the notice, the Deputy Commissioner, shall dismiss the objection, if he is satisfied that the informality, defect or error was not a material one.

(5) If the objection is brought on all or any of the following grounds, that is to say :—

(a) that the notice might lawfully have been served on the occupier of the land in question instead of on the owner, or on the owner instead of on the occupier, and that it would have been equitable for it to have been so served ;

(b) that some other person, being the owner, occupancy tenant, mortgagee with possession, or lessee, or farm holder, or possessing some other right in or over the land to be benefited, ought to contribute towards the expenses of executing any works or taking any measures required :

(c) where the work or measure is work or measure for the common benefit of the land in question and other land, that some other person being the owner or occupier of land to be benefited, ought to contribute towards the expenses of executing any works or taking any measures required ;

the objector shall serve a copy of his notice of objection on each other person referred to, and on the hearing of the objection the Deputy Commissioner may make such order as he thinks fit with respect to the person by whom any work is to be executed or measure is to be taken and the contribution to be made by any other person towards the cost of the work or measure, or as to the proportions in which any expenses which may become recoverable by the Deputy Commissioner under sub-section (6) are to be borne by the objector and such other person ;

Provided that no such order shall be made unless the person who is likely to be affected thereby has been given a reasonable opportunity of being heard.

In exercising his power under this sub-section the Deputy Commissioner shall have regard:—

- (a) as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of the tenancy and to the nature of the works and measures required ; and
- (b) in any case, to the degree of benefit to be derived by the different persons concerned.

(6) Notwithstanding anything to the contrary in any law for the time being in force, no person required by a notice or an order under this section to execute any work or to take any measure shall be required to obtain the consent of any other person before complying with such notice or order.

(7) Subject to such right of objection as aforesaid and the right of appeal under section 18, if the person required by the notice to execute works or to take measures fails to execute the works or to take the measures indicated within the time thereby limited, the Deputy Commissioner may himself or by an agent execute the works or take the measures and recover from that person the expenses reasonably incurred by him in so doing ;

(1) provided that it shall not be necessary for the Deputy Commissioner to wait for the decision of any objection other than an objection under clause (a) of sub-section (5), or an appeal against any decision on such objection, before taking action under this sub-section ;

[* * * * *]

(8) If the cost of any work executed or any measure taken by any person remains unpaid by the person from whom it is due after the date specified in a notice issued in this behalf by the Deputy Commissioner or such other date as is fixed by him, such cost shall be recoverable as an arrear of land revenue and a certificate issued by the Deputy Commissioner in this behalf shall be final and conclusive evidence of the sum so recoverable and the person liable for the same.

(9) Every order issued under this section shall be published in such manner as may be prescribed in the rules made under this Act, and upon such publication every person affected thereby shall unless the contrary be proved, be deemed to have had due notice thereof.

1. Proviso (2) omitted by Punjab Act I of 1951, Sec. 3.

(10) The Deputy Commissioner may by general or special order authorise any revenue officer subordinate to him to enquire into any objection that may be brought under this section :

★ Provided that no final order on any such objection shall be passed except by the Deputy Commissioner himself.

(11) In making an order on objections brought under this section, the Deputy Commissioner shall be guided by such rules, if any, as the ¹[State Government] may make in this behalf.

(12) For the purposes of this section the expression "estate" shall have the meaning assigned thereto in the Punjab Land Revenue Act, 1887].

CONTROL OVER THE BEDS OF CHOS

8. Action when State Government considers it desirable to take measures to regulate the beds of chos. Vesting of such beds in State Government.

(1) Whenever it appears to the ¹[State 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 ¹[State 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 ¹[State Government] is absolutely necessary, or in the event of the owner or occupier of any portion of the bed of any cho failing

1. Subs. for the expression "Central Government" (which was subs. for "State Government" by A.O. 1968) by A.O. 1973. The word "State" was subs. for "Provincial" by Adaptation of Laws Order, 1950.

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 ¹[the ²[State Government)] ³[* * * * *] for such period and subject to such conditions (if any) as may be specified in the notification :

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 ²[State Government] may, from time to time, by like notification, extend the period during which any such area shall remain vested in ³[the ²[State Government]].

9. Effect of notification to suspend or extinguish private rights in the area notified under section 8.—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 ⁴[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. 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 State Government.—(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 cho to which such notification is to apply.

1. Subs. for the words "His Majesty for the purposes of the province" by Adaptation of Laws (Third Amendment) Order, 1951.

2. Subs. for "Central Government" (which was subs. for "State Government" by A.O. 1968) by A.O. 1973.

3. The words "either absolutely and in perpetuity or" were omitted by Punjab Act VIII of 1926, Sec. 2.

4. Subs. for the word "Provincial" by the Adaptation of Laws Order, 1950.

5. Subs. for the words "His Majesty" by the Adaptation of Laws (Third Amendment) Order, 1951.

6. Subs. for the old clauses (a) and (b), by Punjab Act VIII of 1926, Section 3.

(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 person therefrom ; and
- (c) to deal with such area, while it remains vested in ¹[the State Government,] as if it were the absolute property of ¹[the State Government].

11. Bar of compensation for acts done under sections 8, 9 or 10.—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.

12. [Condition as to sale of land acquired under the Act and obligation of Local Government to keep account of moneys expended on such land]—
Repealed by Act VIII of 1926, section 4.

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.—It shall be lawful for the Deputy Commissioner and for his subordinate officers, servants, care-takers and workman, from time to time, as occasion may require,—

- (a) to enter upon and survey any land comprised within any ²[*
* * * *] area in regard to which any notification has been issued under section 3 or section 8 ³[or in regard to which a notification is proposed to be issued under section 5-A].
- (b) to erect bench-marks on and to delimit and demarcate the boundaries of any such ²[* * * *] 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:

1. Subs. for the words "His Majesty" by the Adaptation of Laws (Third Amendment) Order, 1951.

2. The word "local" omitted by Punjab Act IV of 1944, Sec. 10(a).

3. Ins. by Punjab Act IV of 1944, Sec. 10(b).

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 ¹[* * * *] area notified under section 8.

INQUIRY INTO CLAIMS AND AWARD OF COMPENSATION

14. Inquiries into claims and awards thereupon.—(1) The Deputy Commissioner shall—

- (a) fix a date for inquiring into all claims made under section 7 ²[* * *] and may in his discretion, from time to time adjourn the inquiry to a date to be fixed by him ;
- (b) record in writing all statements made under section 7 ;
- (c) inquire into all claims duly preferred under section 7 ²[***];
and
- (d) make and 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 ³[prohibited] and the nature and amount of the compensation (if any) awarded.

(2) For the purposes of every such inquiry 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.

(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.

15. Method of awarding compensation and effect of such award. (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, and, as to matters which cannot be dealt with under those provisions, by what is just and reasonable in the circumstances of each case.

1. The word "local" omitted by Punjab Act IV of 1944, sec. 10(a).

2. The words "or section 12" were omitted by Punjab Act VIII of 1926, sec. 5.

3. Subs. for the word "extinguished" by Punjab Act VIII of 1926, sec. 7.

3. Commencement.—The Regulations, Acts and Orders specified in the First Schedule hereto annexed are in force in the ¹[States of ²(Punjab) and Delhi] to the extent specified in the third column of the said Schedule.

4. Enactments in force.—Repealed by Act No. XVII of 1914, S. 3 and Second Schedule.

CIVIL JUDICATURE

³5. Decisions in certain cases to be according to Native law.—In questions regarding succession, special property of females, betrothal, marriage, divorce, dower, adoption, guardianship, minority, bastardy, family relations, wills, legacies, gifts, partitions, or any religious usage or institution, the rule of decision shall be —

(a) Any custom applicable to the parties concerned, which is not contrary to justice, equity or good conscience, and has not been by this or any other enactment altered or abolished, and has not been declared to be void by any competent authority;

(b) the Muhammadan Law, in cases where the parties are Muhammadans and the Hindu Law, in cases where the parties are Hindus, except in so far as such law has been altered or abolished by Legislative enactment, or is opposed to the provisions of this Act or has been modified by any such custom as is above referred to.]

6. Decisions in cases and specially provided for.—In cases not otherwise specially provided for, the Judges shall decide according to justice, equity and good conscience.

7. Local customs and mercantile usages when valid.—All local customs and mercantile usages shall be regarded as valid, unless they are contrary to justice, equity or good conscience, or have, before the passing of this Act, been declared to be void by any competent authority.

Sections 8, 8-A, 8-B, 8C ⁵[* * * * *]

1. Subs. for the word "Provinces" by Adaptation of Laws Order, 1950.

2. Subs. for the words "East Punjab" by Adaptation of Laws Order, 1950. Now the territories specified in sub-section (1) of section 5 of the Punjab Re-Organisation Act, 1966, vide A.O. 1968.

3. Subs. for the old Section by the Punjab Laws (Amendment) Act, 1878 (XII of 1878), Sec. 1).

4. Sections 8, 8-A, 8-B and 8-C (substituted for the original section 8 by section 2 of the Punjab Act IV of 1900) were repealed together with the headings thereto, by Punjab Act, V of 1941.

PRE-EMPTION

9 to 20 1[* * * * *]

DECREES CONCERNING LAND

21. Copy of decrees affecting land to be forwarded to Deputy Commissioner. 2[* * * * *]

INSOLVENCY

22 to 32. 3[* * * * *]

33. Saving of previous insolvency proceedings 4[* * *]

MINORS AND THE COURT OF WARDS

34 to 38 5[* * * * *]

CRIMINAL JUDICATURE

39. Indian Penal Code to apply to offences committed previous to 1st January, 1862. - The provisions of the Indian Penal Code, with the exception of Chapter VI, shall be applicable to all offences committed before first January, 1862, in territory which was, at the time of the commission of such offence, subject to the 6[State] Government of 7[Punjab].

Provided that nothing contained in this section shall affect any privilege conferred on certain Chiefs in Punjab by the 8[Central Government], or by the Board of Administration for the affairs of the Punjab, nor any indemnity or pardon granted by competent authority.

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1. Repealed by Punjab Act II of 1905, Sec. 2(i).
 2. Repealed by Act XVII of 1887, Schedule.
 3. Repealed by Act III of 1907, Schedule.
 4. Repealed by Act XII of 1891, Schedule.
 5. Repealed by Punjab Act I I of 1905, schedule.
 6. Subs. for "Provincial" by Adaptation of Laws Order, 1950.
 7. Subs. for the words "East Punjab" which had been inserted for the word "the Punjab" by the Indian (Adaptation of Existing Indian Laws) Order, 1947, by the Adaptation of Laws Order, 1950. Now Himachal Pradesh.
 8. Subs. for the words 'Governor-General in Council' by the Government of India (Adaptation of Indian Laws) Order, 1937.
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¹[39-A Power to establish system of village watchmen and municipal watchmen, and to make rules.—The ²[State Government] may establish a system of village watchmen or municipal watchmen in any part of the territories under its administration, and in furtherance of this object may, from time to time, make rules to provide for the following matters :—

- (a) the definition of the limits of watchmen's beats ;
- (b) the determination of the several grades of watchmen, and the number of each grade to be appointed to each beat ;
- (c) the appointment, suspension, dismissal and resignation of watchmen of each grade ;
- (d) the equipment and discipline of, and the control and supervision over, such watchmen ;
- (e) the conferring upon them, and the exercise by them, of any power and the enjoyment by them of any protection or privilege, which may be exercised and enjoyed by a police officer under any law for the time being in force ;
- (f) the performance by them of such duties relating to police, sanitation or statistics, or for the benefit of the village communities or municipalities within their respective beats, as the ²[State Government] thinks fit ;
- (g) the exercise of the authority over, and the rendering of aid, to such watchmen by headmen of the villages or members of the Municipal Committees of the town comprised in their respective beats ;
- (h) the performance, by the headmen of villages comprised in the beat of any watchmen, of any of the duties of a village watchman in aid of, substitution for, such watchman ;
- (i) the exercise, by such village headmen for the purposes referred to in clauses (g) and (h) or by members of Municipal Committees for the purposes referred to in clause (g) of this section, of any of the powers, and the enjoyment by such headmen or members of any privilege or protection, of a village watchman, or a municipal watchman, as the case may be ;

1. Sections 39-A to 39-C were inserted by Act XV of 1875, Sec. 2. Original [sections 39-A and 39B were substituted by the present sections 39-A and 39-B by the Punjab Laws (Amendment) Act, 1881 (Act XXIV of 1881), Sec. 2.

2. Subs. for the expression "Central Government" (which was subs. for "State Government" by A.O. 1968) by A.O. 1973. The word "State" was subs. for "Provincial" by Adaptation of Laws Order, 1950.

- (j) the determination of the rate at which, and the mode in which, watchmen shall be paid, and in the case of village watchmen, of the mode in which their pay, the expenses of their equipment, and other charges connected with the village watchmen-system shall be provided for, whether out of cesses or funds already leviable or available in the villages comprised in the beat, or by a special tax in money or kind to be imposed on any class of persons residing or owning property in, or resorting to, such villages, or partly in one of these ways and partly in the other ;
- (k) the collection with or without the aid of the village-headmen, and by any process available for the realisation of the land-revenue, of any tax imposed under clause (j) of this section , and the application of, and the mode of accounting for, the same ; and generally for
- (l) the efficient working of the system of village-watchmen or municipal watchmen ;

Provided—

1st, that the rules to be made regarding the appointment of village-watchmen shall allow to the head men of the villages comprised in the beat to which such a watchman is to be appointed a power of nomination , to be exercised in such a manner and subject to such reasonable conditions as may be prescribed by such rules;

2ndly, that the rules to be made under clause (j) of this section with regard to village-watchmen shall include provisions for recording and securing due consideration of the views and opinions for the matters therein referred to of the headmen of the villages comprised in each beat.

39-B. Obligation to assist watchmen and headmen.—Every person is bound to render to a village watchman, or municipal watchman, or village headman discharging the duties of a Police officer under the rules made hereunder, all the assistance which he is bound to render to a Police Officer.

Person obstructing watchman or headman may be arrested without warrant.—Any person who obstructs such watchman or headman in the discharge of such duties may be arrested without warrant by a Police Officer or by any watchman or village headman empowered in this behalf by the ¹[State Government].

1. Subs. for "Central Government" (which was subs. for "State Government" by A.O. 1968) by A.O. 1973. The word "State" was subs. for the word "Provincial" by Adaptation of Laws Order, 1950.

¹**39-C. Power to direct local taxation for payment of police enrolled under Act V of 1961.**—Whenever it seems to the ²[State Government] expedient that the duties of watch-and-ward and other internal police service of any town or village not comprised within the limits of a municipality or within the limits of a village watchman's beat as defined under the power conferred by section 39-A should be performed by Police-Officers enrolled under Act V of 1961, the ²[State Government] may direct that the said service shall be so performed and may also, ³[* * * * *] direct that the charges for the time being fixed by such ²[State Government] on account of such service shall be defrayed by taxes to be levied in such town or village.

39-D. Notice of taxes proposed to be levied.—When the ²[State Government] has, under section 39-C, directed that taxes shall be levied in any town or village, the Deputy Commissioner may from time to time issue a public notice in such town or village explaining the nature of the taxes he proposes to levy.

Objections to taxation.—Any inhabitant of such town or village objecting to the taxation thus proposed may, within fifteen days from the publication of such notice, send his objection in writing to the Deputy Commissioner.

Procedure thereon.—After the expiry of fifteen days from the publication of the notice, the Deputy Commissioner may submit for the information of the ²[State Government] report of the proposal made by him. Such report shall contain specific mention of the objections (if any) urged to his proposal and his opinion on such objections.

No such tax shall be levied until it has, upon such report, been approved by the ²[State Government].

39-E. Power to fix rates of tax.—When any such tax has been so approved by the ²[State Government], the Deputy Commissioner may, from time to time, subject to such rules consistent with this Act as the ²[State Government] may from time to time prescribe, determine the rates at which it is to be levied.

1. Sec. 39-C to 39-G were inserted by Act XV of 1875, Sec. 2.

2. Subs. for "Central Government" (which was subs. for "State Government" by A.O. 1968) by A.O. 1973. The word State was subs. for 'Provincial' by Adaptation of Laws Order, 1950.

3. The words "Subject to the control of the Governor-General in Council" were omitted by Government of India (Adaptation of Indian Laws) Order, 1973.

39-F. Power to make rules for collection of taxes.—The ¹[State Government] may from time to time make rules to provide for the collection of such taxes by any process available for the realisation of the revenue and to regulate the application and mode of accounting for the same.

39-G. (Validation Clause.)—²[* * *].

HONORARY POLICE - OFFICERS

40. ¹[State Government] may confer powers of Police Officers.—The ¹[State Government] may, if it thinks fit, confer on any person any of the powers which may be exercised by a Police Officer under any Act for the time being in force ³[and may withdraw any powers so conferred.]

TRACK LAW

41. Trackers may call for assistance in carrying on tracks.—When an offence is, has been, or may reasonably be supposed to have been committed, and the tracks of the persons who may reasonably be supposed to have committed such offence, or of any animal or other property reasonably supposed to be connected with such offence, are followed to a spot within the immediate vicinity of a village the person following such tracks may call upon any head-man or village-watchman in such village to assist in carrying on the tracks.

42. Penalty for withholding assistance or conniving at offence or escape.—If such headman or watchman do not forthwith give such assistance, or if the inhabitants of such village do not afford full opportunity for search in their houses for the offenders, or if, from the circumstances of the case, there shall appear good reason to believe that the inhabitants of such village, or any of them, were conniving at the offence or at the escape of the offenders, and such offenders cannot be traced beyond the village, the Magistrate of the District may, with the previous sanction of the Commissioner of the Division, inflict a fine upon such village not exceeding five hundred rupees, except in the case of stolen property over five hundred rupees in value, in which case the fine shall not exceed the value of such property.

Appeal to High Court.—An appeal against all convictions under this section shall lie to the ⁴[High court of Himachal Pradesh].

1. Subs. for "Central Government" (which was subs. for "state Government" by A. O. 1968) by A.O. 1973. The word "State" was subs. for "Provincial" by Adaptation of Laws Order, 1950.

2. Repealed by Act No. XII of 1891, schedule.

3. Added by the Punjab Laws (Amendment) Act, 1878 (XII of 1878) Sec. 8.

4. Subs. for "High Court of Punjab" which was subs. for the words "Chief Court" by Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948. The word "Punjab" was subs. for the words 'East Punjab' by Adaptation of Laws Order, 1950.

Fine may be awarded to injured parties, and fee to tracker.—The Magistrate may direct that the fine imposed under this section or any part thereof shall be awarded to any persons injured by such offence in compensation for such injury; and, in the case of stolen property recovered through the agency of a tracker, may direct that such property be not restored to its owner until he has paid to such tracker such fee, not exceeding one-fourth part of the value of the stolen property as the said Magistrate deems fit.

SLAUGHTER OF KINE

43. Control of slaughter of kine and sale of beef.—The slaughter of kine and the sale of beef shall not take place except ¹[****] subject to rules to be, from time to time, either generally or in any particular instance, prescribed by the ²[State Government.]

ARMED MEN AND FOREIGN VAGRANTS.

44. Control of entry into towns of bands of armed men.—No band of armed men shall enter into any city or town, except ¹[****] subject to rules to be, from time to time, either generally or in any particular instance, prescribed by the ²[State Government].

45. Powers of Magistrate of District as to foreign vagrants.—The Magistrate of the District may, if he considers that any band of foreign vagrants is likely to occasion breach of the peace or to commit any offence under the Indian Penal Code, prohibit such band from entering his district; or, if they are already in his district, may require them within a given time to leave it.

46. Surveillances etc., of band failing to comply with Magistrate's order.—If any such band fail to comply with the orders of the said Magistrate within the prescribed period, he shall report the matter to the ²[State Government], and the ²[State Government] may give such directions for the surveillance, control or deportation of such band as to it seems fit.

MISCELLANEOUS

47. Crossing of streams on buoys or skins.—No person shall cross any river or stream on a buoy or inflated skin, nor shall have in his possession or custody any buoy or skin for the purpose of being used in crossing any river or stream except, ³[**] subject to rules to be, from time to time, either generally or in any particular instance prescribed by the ²[State Government.]

1. The words "with the consent and" were omitted by the Punjab Laws (Amendment) Act, 1878 (XII of 1878), Sec. 6.

2. Subs. for the expression "Central Government" which was subs. for "State Government" by A.O. 1968) by A.O. 1973. The word "State" was subs. for the word "Provincial" by the Adaptation of Laws Order, 1950.

3. The words "with the consent and" Omitted by Act No. XII of 1878.

48. Use of pasturage or natural product of ¹[Government] land.—No person shall make use of the pasturage or other natural product of any land being the property of the ¹[Government] except with the consent and subject to rules to be from time to time, either generally or in any particular instance, prescribed by ²[the Government concerned].

49. ³[Growing, selling, or keeping opium.—***]**

⁴[50. Power to make rules as to matter mentioned in sections 43 to 48.—The ⁵[State Government] may from time to time make rules as to the matters mentioned in ⁶[sections 43 to 48] inclusive.

Existing Rules.— All existing rules upon such matters, which might have been made under this section had it been in force, shall be deemed to have been made hereunder.

50-A. Conditions of validity of rules hereafter made under this Act.—⁷[Rules made under this Act shall not be valid unless] :—

- (a) they are consistent with the laws for the time being in force in the ⁸[States⁹] of ¹⁰[Punjab] and Delhi].
- (b) they are published in the official Gazette.
¹¹[* * * * *]

50-B. ¹²[Penalty for contravention of rules.—If any person contravenes the provisions of any rule made by the State Government under this Act, he shall be punishable with imprisonment for a time which may extend to six months, or with fine which may extend to fifty rupees, or with both]

1. Subs. for the word 'Crown' by the Adaptation of Indian Laws Order, 1950.
2. Subs. for the words "the Government for whose purpose the land is vested in His Majesty" by Adaptation of Laws Order, 1950.
3. Repealed by Punjab Act No. 1 of 1878.
4. Sec. 50, 50-A and 50-B were substituted for the original Sec. 50 by Sec. 3 of the Punjab Laws (Amendment) Act, 1875 (XV of 1875).
5. Subs. for the expression 'Central Government' (which was subs. for "State Government" by A.O. 1968) by A.O. 1973. The word 'State' was subs. for the word "Provincial" by the Adaptation of Laws Order, 1950.
6. Subs. for the original reference by the Amending Act, 1891 (XII of 1891).
7. Subs. for the words "All rules hereafter made by the Local Government under any power conferred by this Act shall be subject to the control of the Governor-General in Council and no such rules shall be valid unless" by Government of India (Adaptation of Indian Laws) Order, 1937.
8. Subs. for the word 'Punjab' by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.
9. Subs. for the word "Provinces" by Adaptation of Laws Order, 1950.
10. Subs. for the words "East Punjab" by the Adaptation of Laws Order, 1950.
11. Cl. (c) was omitted by the Decentralisation Act, 1914 (XIV of 1914).
12. Subs. by Punjab Act No. 15 of 1961, Sec. 2.

¹[51. **Republication of rules and orders.**—All rules which the²[State Government] is empowered to issue under this Act, and all circulars issued by the³[High Court of Himachal Pradesh] shall be republished from time to time by the²[State Government], and upon such republication, shall be arranged in the order of their subject-matter, and all such alterations or amendments as may have been made since the last preceding publication thereof, or may have become necessary or advisable, shall be embodied therewith, and upon such republication all such rules and circulars previously issued shall be repealed.]

52. [Recovery of advances made by Government]⁴

⁵ SCHEDULE I

ENACTMENTS DECLARED TO BE IN FORCE

Explanation.—This schedule does not refer to any Act which is in its terms applicable to the Punjab, or which has been extended to the Punjab by competent authority.

No. and year	Title	Extent to which the enactment is in force
⁶ Reg. I of 1798.	A regulation to prevent Fraud and Injustice in Conditional Sales of Land under Deeds of bai-bil-wuffa, or other Deeds of the same nature	The whole, except such parts as relate to interest.
7*	* * * * *	

1. Subs. for the old Section by Punjab Act I of 1910.
2. Subs. for the expression "Central Government" (which was subs. for "State Government" by A.O. 1968) by A.O. 1973. The word "State" was subs. for "provincial" by Adaptation of Laws Order, 1950.
3. Subs. by A.O. 1973, for "High Court of Punjab" which was subs. for the words "Chief Court" by Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948. The word "Punjab" was subs. for the words "East Punjab" by the Adaptation of Laws Order, 1950.
4. Repealed by Act X of 1879.
5. As so much of Act IV of 1872 as related to Bengal Regulations V of 1817 and XX of 1825 and Acts XL of 1858 and XVII of 1861 was repealed by Acts VI of 1878, X of 1882, VIII of 1890 and XII of 1891, respectively, the references to these Regulations and Acts in this Schedule are omitted.
6. So much of Act IV of 1872 as relates to Bengal Regulations I of 1798 and XVII of 1806 will be repealed when the Transfer of Property Act, 1882 (IV of 1882) is extended to the Punjab, see sec. 1, 2 and Sch. of Act IV of 1882.
7. So much of the first Schedule as relates to Bengal State offences Regulations, 1804 (Regulation X of 1804) was repealed by Act IV of 1922.

No. and year	Title	Extent to which the enactment is in force
1 Reg. XVII of 1806.	A Regulation for extending to the Province of Benares the Rates of interest on future Loans and Provisions relative thereto, contained in Regulation XV, 1793; also for a general extension of the period fixed by Regulations, I, 1798, and XXXIV, 1803, for the redemption of Mortgages and Conditional Sales of Land, under Deeds and of bai-bil-wuffa, Kutchubaleh, or other similar designation.	Sections 7 and 8.
Reg. III of 1818.	A Regulation for the Confinement of State Prisoners.	The whole
Reg. XI of 1825.	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.	The whole
* * * * *		
	Rules for the conservancy of Forests and Jungles in the Hill Districts of the Punjab Territories sanctioned by the Governor-General in Council in letter of the Secretary to the Government of India, No. 1789, dated 21st May, 1855.	The whole

THE PUNJAB LAWS (AMENDMENT) ACT, 1961.

ARRANGEMENT OF SECTIONS

SECTIONS

1. Short title
2. Substitution of Section 50-B of Punjab Act IV of 1872.
3. Repeal of Punjab Act XII of 1878.

1. So much of Act IV of 1872 as relates to Bengal Regulations I of 1798 and XVII of 1806 will be repealed when the Transfer of Property Act 1882 (IV of 1882) is extended to the Punjab. see Sec. 1, 2 and Sch. of Act IV of 1882.