

THE FERRIES ACT, 1878

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ACT No. XVII OF 1878

[9th November, 1878]

An Act to regulate Ferries 2* * *

WHEREAS it is expedient to regulate ferries in 3[certain Provinces]; It is hereby enacted as follows :—

I.—PRELIMINARY

- ① This Act may be called the⁴* * Ferries Act, 1878. Short title.
- ⁵[It extends only to 6[the Punjab] 7[and the North-West Frontier Province]. Local extent.
- It shall come into force in each of the said territories on such date⁸ as the 9[appropriate Government] may, by notification in the official Gazette, fix in this behalf. Commence-ment.
- ② [Repeal.] Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.

¹For Statement of Objects and Reasons, see Gazette of India, 1878. Pt. V, p. 135, for Preliminary Report of the Select Committee, see *ibid.*, p. 210; for Proceedings in Council, see *ibid.*, Supplement, pp. 286, 325, 1104 and 1194.

²The words "in Northern India" omitted by A. O., 1949, Sch.

³Subs. *ibid.*, for "the Punjab, the North-Western Provinces, Oudh, Central Provinces, Assam, and Ajmer and Merwara".

⁴The words "Northern India" omitted *ibid.*

⁵Subs. *ibid.* for the original paragraph.

⁶Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 8, for "West Punjab".

⁷Subs. by F.A.O., 1975, Art. 2 and Sch., for "the North-West Frontier and the district of Sylhet".

⁸The Act was brought into force in—

The Punjab on 1st April 1881 : see Punjab Gazette, Pt. 1, p. 139.

⁹Subs. by F.A.O., 1975, Art. 2 and Sch., for "Provincial Government"

Interpretation clause.

(I.—Preliminary II.—Public Ferries)

3. In this Act the word "ferry" includes a bridge of boats, pontoons or rafts, a swing-bridge, a flying-bridge and a temporary bridge, and the approaches to, and landing-places of, a ferry.

Definition

1[3A.—In this Act, "appropriate Government" means—

- (a) in relation to national highways and strategic roads declared as such by or under a Federal Law, the Federal Government ; and
- (b) in relation to other matters the Provincial Government.]

II.—PUBLIC FERRIES

4. The 2[appropriate Government] may from time to time—
- (a) declare what ferries shall be deemed public ferries, and the respective districts in which, for the purposes of this Act, they shall be deemed to be situate ;
 - (b) take possession of a private ferry and declare it to be a public ferry ;
 - (c) establish new public ferries where, in its opinion, they are needed ;
 - (d) define the limits of any public ferry ;
 - (e) change the course of any public ferry ; and
 - (f) discontinue any public ferry which it deems unnecessary.

Every such 3declaration, establishment, definition, change or discontinuance shall be made by notification in the official Gazette.

Provided 5* that, when any alteration in the course or in the limits of a public ferry is rendered necessary by changes in the river, such alteration may be made, by an order under his hand, by the 6Commissioner of the division in which such ferry is situate, or by such other officer as the 2[appropriate Government] may, from time to time, appoint by name or in virtue of his office in this behalf.

5 Claims for compensation for any loss sustained by any person in consequence of a private ferry being taken possession of under section 4 shall be inquired into by the Magistrate of the district in which such ferry is situate, or such officer as he appoints in this behalf, and submitted for the consideration and orders of the 2[appropriate Government].

6. The immediate superintendence of every public ferry shall, except as provided in section 7 7[and section 7A], be vested in the

¹Section 3A ins by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and 2nd Sch.

²Subs. by F.A.O., 1975, Art 2 and Sch., for "Provincial Government" which had been substituted by A.O., 1977, for "L.C."

³For such declarations, etc. see different local rules and orders.

⁴The original proviso, which was first subs. by the Devolution Act, 1920 (28 of 1920) and then amended by A.O., 1937, have been omitted by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and Second Sch. (with effect from the 14th October 1955).

⁵The word "also" omitted, by Ord. 21 of 1960, s. 3 and Second Sch. (with effect from the 14th October, 1955).

⁶In the N.-W.F.P. references to "Commissioner" or "Commissioner of a division" are to be construed as referring to the Revenue Commissioner: see the N.-W.F.P. Law and Justice Regulation, 1901 (7 of 1901), s. 6 (1) (f).

⁷Ins. in the application of the Act to—

The Punjab, by the Punjab District Boards Act, 1883 (70 of 1883), s. 70

⁴Subs. by the Northern India Ferries Act, 1886 (3 of 1886), s. 3 and Sch.

Magistrate of the district in which such ferry is situate, or in such other officer as the 1[appropriate Government] may, from time to time, appoint by name or in virtue of his office in this behalf², public ferries

and such Magistrate or officer shall, except when the tolls at such ferry are leased, make all necessary arrangements for the supply of boats for such ferry, and for the collection of the authorised tolls leviable thereat.

7. The 1[appropriate Government] may direct that any public ferry situate within the limits of a town be managed by the officer or public body charged with the superintendence of the municipal arrangements of such town ;

Management may be vested in municipality.

3[and thereupon that ferry shall be managed accordingly.]

4[7A. The 1[appropriate Government] may direct 5that any public ferry, wholly or partly within the area subject to the authority of a District Council or a District Board or a Local Board in the Province be managed by that Council or Board, and thereupon that ferry shall be managed accordingly.]

Management may be vested in District Council or District or Local Board.

8. The tolls of any public ferry may, from time to time be let by public auction for a term not exceeding five years with the approval of the 7Commissioner, or by public auction, or otherwise than by public auction, for any term with the previous sanction of the 1[appropriate Government].

Letting ferry tolls by auction.

The lessee shall conform to the rules made under this Act for the management and control of the ferry, and may be called upon by the officer in whom the immediate superintendence of the ferry is vested, or, if the ferry is managed by a municipal or other public body under section 7 or section 7A, then by that body, to give such security for his good conduct and for the punctual payment of the rent as the officer or body, as the case may be, thinks fit.

When the tolls are put up to public auction, the said officer or body, as the case may be, or the officer conducting the sale on his or its behalf, may, for reasons recorded in writing, refuse to accept the offer of the highest bidder, and may accept any other bid, or may withdraw the tolls from auction.]

¹ See foot note 2, on page 300, *supra*.

² For notifications as to the superintendence of ferries in the Punjab see Punjab Rules and Orders.

³ Subs. by A.O., 1937, for the following words :—

"and may further direct that all or any part of the proceeds from such ferry be paid into the municipal fund of such town and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly"

⁴ Subs. *ibid.*, for section 7A inserted by the Acts mentioned in foot note 6 *supra*.

⁵ For notifications vesting the management of certain ferries in District Boards, see the Punjab Rules and Orders.

⁶ Subs. for the original section 8 by the Northern India Ferries Act, 1886 (3 of 1886), s. 1.

⁷ See foot note 2, on page 300, *supra*.

⁸ Subs. by the Northern India Ferries Act, 1886 (3 of 1886), s. 1.

Fines, payable to lessee.

(27) Where the tolls of any public ferry have been let under the provisions herein before contained, the whole or any portion of any fine realised under section 25 or section 26 may, notwithstanding anything contained in section 17, be at the discretion of the convicting Magistrate or Bench of Magistrates, paid to the lessee.

Penalty for rash navigation and stacking of timber.

(28) Whoever navigates, anchors, moors or fastens any vessel or raft, or stacks any timber in a manner so rash or negligent as to damage a public ferry shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and the toll-collector or lessee of the tolls of such ferry, or any of his assistants, may seize and detain such vessel, raft or timber pending the inquiry and assessment hereinafter mentioned.

Power to arrest without warrant.

(29) The police may arrest without warrant any person committing an offence against section 25 or section 28.

Power to try summarily.

(30) Any Magistrate or Bench of Magistrates having summary jurisdiction under Chapter 1[XXII] of the Code of Criminal Procedure, 1898], may try any offence against this Act in manner provided by that Chapter.

Act V of 1898.

Magistrate may assess damage done by offender.

(31) Every Magistrate or Bench of Magistrates trying any offence under this Act may inquire into and assess the value of the damage (if any) done or caused by the offender to the ferry concerned, and shall order the amount of such value to be paid by him in addition to any fine imposed upon him under this Act; and the amount so ordered to be paid shall be leviable as if it were a fine, or, when the offence is one under section 28, by the sale of the vessel, raft or timber causing the damage and of anything found in or upon such vessel or raft.

The ²Commissioner of the division may, on the appeal of any person deeming himself aggrieved by an order under this section, reduce or remit the amount payable under such order.

V.—MISCELLANEOUS

Power to take possession of boats, etc., on surrender or cancellation of lease.

(32) When the lease of the tolls of any ferry is surrendered under section 11 or cancelled under section 24, the Magistrate of the district may take possession of all boats and their equipment and all other material and appliances used by the lessee for the purposes of such ferry, and use the same (paying such compensation for the use thereof as the ³[appropriate Government] may in each case direct) until such Magistrate can conveniently procure proper substitutes therefor.

Similar power in

(33) When any boats or their equipment or any materials or appliances suitable for setting up a ferry, are emergently required

¹Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and 2nd Sch., for "XVIII of the Code of Criminal Procedure".

² See foot-note 6, on page 300, *supra*.

³ See foot-note 2, on page 300, *supra*.

for facilitating the transport of officers, or troops of ¹[Pakistan] on duty, or of any persons on the business of ¹[Government], or of any animals, vehicles or baggage belonging to such officers, troops or persons or of any property of ¹[Government], the Magistrate of the district may take possession of and use the same (paying such compensation for the use thereof as ²[the ³Federal Government], where the transport is in connection with the affairs of the ³[Federal Government] and the Provincial Government in other cases], may in each case direct) until such transport is completed.

cases of emergency.

(34) No suit to ascertain the amount of any compensation payable, or abatement of rent allowable, under this Act shall be cognizable by any Civil Court.

Jurisdiction of Civil Courts barred.

(35) The ⁴[appropriate Government] may, from time to time, delegate, under such restrictions as it thinks fit, any of the powers conferred on it by this Act to any ⁵Commissioner of a division or Magistrate of a district, or to such other officer as it thinks fit, by name or by virtue of his office.

Delegation of powers.

(36) [Validation of proceedings since repeal of Regulation VI of 1891 in Punjab.] Rep. by the Amending Act, 1891 (XII of 1891).

THE ELEPHANTS' PRESERVATION ACT, 1879

6ACT No. VI OF 1879

[22nd March, 1879]

An Act for the preservation of wild elephants.

WHEREAS it is expedient to provide for the preservation of wild elephants; It is hereby enacted as follows:—

Preamble.

1. This Act may be called the Elephants' Preservation Act, 1879:

Short title

¹Subs. by A.O., 1961, Art. 2 and Sch. for "Her Majesty" (with effect from the 23rd March, 1956).

²Subs. by A.O., 1937, for "the L.G.".

³Subs. by F.A.O., 1975, Art. 2 and Table, for "Central Government".

⁴See foot-note 2, on page 300, *supra*.

⁵See foot-note 6, on page 300, *supra*.

⁶For the Statement of Objects and Reasons, see Gazette of India, 1878, Pt. V, p. 199; for the Preliminary Report of the Select Committee, see *ibid*, Pt., V, p. 387; for discussions in Council, see *ibid*, 1878, Supplement, p. 1103, 1855; and *ibid*, 1879, Supplement, pp. 348—350.

The Act has been repealed in its application to the Province of Punjab by Punjab Ordinance XXI of 1972, s. 42 with effect from the 25th October, 1972 which was temporarily enacted by the Punjab Act, VI of 1973 and on the expiry of the Ordinance as so enacted by Punjab Act 2 of 1974, s. 48.

This Act has been repealed to the extent of Islamabad Capital Territory, see Ordinance No. 27 of 1981 s. 4 and 3rd Sch.