



The Northern India Canal and Drainage Act, 1973

Act 8 of 1973

Keyword(s):

Canel, Watercourse, Drainage-work, Vessel, Collector, Canal Officer, Share Holder, Field
Draind, Cultural Commanded Area

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THE NORTHERN INDIA CANAL AND DRAINAGE
ACT, 1873.

(ACT No. 8 OF 1873).

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THE NORTHERN INDIA CANAL AND DRAINAGE
ACT, 1873.

(Act No. 8 of 1973.)

[11th February, 1873.]

1	2	3	4
Year	No.	Short title	Whether repealed or otherwise affected by legislation
1873 ..	8	The Northern India Canal and Drainage Act, 1873	Rep. in part, 12 of 1874. Rep. in part, Act 16 of 1874. Rep. in part (in Punjab) Act 16 of 1887. Rep. in Part (in Punjab) Act 16 of 1914, Sch. I Pt. I. Amended, Act 12 of 1891. Amended Act 16 of 1899, Amended Reg. 4 of 1898. Amended, Act 38 of 1920. Amended in part, Government of India (Adaptation of Indian Laws) Order, 1937. Amended in part by the Indian Independence (Adaptation of Central Act and Ordinances) Order, 1948. Amended in part by the Adaptation of Laws Order, 1950, Amended in part by Punjab Act 19 of 1953 ¹ Affected by Punjab Act 21 of 1954 ² Amended by the Adaptation of laws (No. 2) Order, 1956. Extended to Ppsu by Punjab Act 5 of 1937. Amended by Punjab Act 21 of 1958 ³ . Amended by Punjab Act 22 of 1960 ⁴ . Amended by Punjab Act 6 of 1961 ⁵ . Amended by Punjab Act 21 of 1963 ⁶ . Amended by Punjab Act 6 of 1964 ⁷ . Amended by Punjab Act 23 of 1965 ⁸ . Amended by Punjab Act 14 of 1968 ⁹ .

¹For Statement of Objects and Reasons, see 'Gazette of India', 1872, Pt. V, 651; for Reports of Select Committee, see *ibid.*, p. 747 and *ibid.* Supplement, 1873, p. 223; for Proceedings in Council, see *ibid.* Supplement pp. 919, 956 and 1081; *ibid.*, 1873, Supplement pp. 54, 156, 223, 246 and 279.

²For Statement of Objects and Reasons, see *Punjab Government Gazette (Extraordinary)*, 1953, page 456; and for Proceedings in the Assembly, see *Punjab Legislative Assembly Debates*, 1953.

³For Statement of Objects and Reasons, see *Punjab Government Gazette (Extraordinary)*, 1954, page 144; and for Proceedings in the Assembly, see *Punjab Legislative Assembly Debates*, 1954.

⁴For Statement of Objects and Reasons, see *Punjab Government Gazette (Extraordinary)*, 1958, page 561.

⁵For Statement of Objects and Reasons, see *Punjab Government Gazette (Extraordinary)*, 1960, page 582.

⁶For Statement of Objects and Reasons, see *Punjab Government Gazette (Extraordinary)*, 1960, page 1948.

⁷For Statement of Objects and Reasons, see *Punjab Government Gazette (Extraordinary)*, 1963, pages 372-73.

⁸For Statement of Objects and Reasons, see *Punjab Government Gazette (Extraordinary)*, 1964, page 122.

⁹For Statement of Objects and Reasons, see *Punjab Government Gazette (Extraordinary)*, 1965, page 459.

¹⁰For Statement of Objects and Reasons, see *Punjab Government Gazette (Extraordinary)*, 1967, pages 438-39.

An Act to regulate Irrigation, Navigation and Drainage in Northern India.

Preamble.

Whereas, throughout the territories to which this Act extends ¹[the Provincial Government] is entitled to use and control for public purposes the water of all rivers and streams flowing in natural channels, and of all lakes and other natural collections of still water; and whereas it is expedient to amend the law relating to irrigation, navigation and drainage in the said territories; it is hereby enacted as follows:—

PART I.

Preliminary.

Short title.

1. This Act may be called the Northern India Canal and Drainage Act, 1873.

Local extent.

It extends to ²[³Uttar Pradesh and the ⁴[territories which, immediately before the 1st November, 1956, were comprised in the ⁵(States) of ⁶(Punjab) and Delhi] and applies to all lands, whether permanently settled, temporarily settled, or free from revenue.

[* ** * * *].

2. [Repeal of Acts.] Rep. by the Repealing Act, 1873 (XII of 1873) s. I and Sch., Pt. II.

¹Substituted for the words "the Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

²Substituted for the words "territories which on the 11th February, 1873, were respectively under the Government of the Lieutenant-Governors of the North-Western Provinces and the Punjab, and under the administration of the Chief Commissioners of Oudh and the Central Provinces" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order of 1948.

³Substituted for the words "United Provinces" by the Adaptation of Laws Order, 1950.

⁴Substituted for the words "States of Punjab and Delhi" by the Adaptation of Laws (No. 2) Order, 1953, and thereafter extended to the territories which immediately before 1st November, 1956, were comprised in the State of Pepsu by Punjab Act 5 of 1957.

⁵Substituted for the words "Provinces" by the Adaptation of Laws Order, 1950.

⁶Substituted for the words "East Punjab" by the Adaptation of Laws Order, 1950.

⁷Words referring to the commencement of the Act were omitted by the Repealing Act, 1874 (16 of 1874), section 1, and Schedule, Part I.

3. In this Act, unless be something repugnant in the subject or context:—

Interpretation
Clause.

(1) "canal" includes—

"Canal."

(a) all canals, channels and reservoirs constructed, maintained or controlled by the ¹[State] Government for the supply or storage of water;

(b) all works, embankments, structures, supply and escape-channels connected with such canals, channels or reservoirs;

(c) all watercourses as defined in the second clause of this section;

(d) all parts of a river, stream, lake or natural collection of water or natural drainage-channel, to which the ¹[State] Government has applied the provisions of Part II of this Act;

²[(e) a field drain for purposes of section 70 of this Act;]

(2) "watercourse" means any channel which is supplied with water from a canal, but which is not maintained at the cost of the ¹[State] Government, and all subsidiary works belonging to any such channels;

"Water course"

(3) "drainage-work" includes escape-channels from a canal, dams, weirs, embankments, sluices, groins and other works for the protection of lands from flood or from erosion, formed or maintained by the ¹[State] Government under the provisions of Part VII of this Act, but does not include works for the removal of sewage from towns;

"Drainage-work."

(4) "vessel" includes boats, raft, timber and other floating bodies;

"Vessel."

(5) "Commissioner" means a commissioner of a division, and includes any officer appointed under this

"Commissioner."

¹Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

²Clause (e) added by Punjab Act, 21 of 1958, section 2.

Act to exercise all or any of the powers of a Commissioner;

"Collector."

(6) "Collector" means the head revenue-officer of a district, and includes a Deputy Commissioner or other officer appointed under this Act to exercise all or any of the powers of a Collector;

"Canal-officer."

(7) "Canal-officer" means an officer appointed under this Act to exercise control or jurisdiction over a canal or any part thereof;

"Superintending Canal-officer."

"Superintending Canal-officer" means an officer exercising general control over a canal or portion of a canal;

"Divisional Canal-officer."

"Divisional Canal-officer" means an officer exercising control over a division of a canal;

"Sub-Divisional Canal-officer."

"Sub-Divisional Canal-officer" means an officer exercising control over a sub-division of a canal,

¹["Deputy Collector" means an officer appointed as such by the State Government who assists the Divisional Canal-officer in revenue matters arising in a Division of a canal.]

"District."

(8) "District" means a district as fixed for revenue purposes.

²[(9) "Share-holder" means a person who is interested in the land which is irrigated or likely to be irrigated by a canal and also includes a person who is interested in a field drain.

(10) "Field drain" includes drains, escape channels and other similar works formed or maintained by landowners themselves.

³[(11) "cultural commanded area" means that portion of the culturable irrigable area which is commanded by flow or lift irrigation from an irrigation channel, outlet or State Tube-well.]]

¹Inserted by Punjab Act, 21 of 1963.

²Clause (9) to (11) added by Punjab Act, 21 of 1958; and Clause (11) subsequently substituted by Punjab Act, 6 of 1961.

4. The ¹[State] Government may from time to time declare, by notification in the Official Gazette, the officers by whom, and the local limits within which all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed. Power to appoint officers.

All officers mentioned in section 3, clause (7), shall be respectively subject to the orders of such officers as the ¹[State] Government from time to time directs.

PART II.

Of the Application of Water for Public Purposes.

5. Whenever it appears expedient to the ¹[State] Government that the water of any river or stream flowing in a natural channel, or of any lake or other natural collection of still water, should be applied or used by the ¹[State] Government for the purposes of any existing or projected canal or drainage-work, the ¹[State] Government may, by notification in the Official Gazette, declare that the said water will be so applied or used after a day to be named in the said notification, not being earlier than three months from the date thereof. Notification to issue, when water-supply is to be applied for public purposes.

6. At any time after the days ²[so named] any Canal-officer, acting under the orders of the ¹[State] Government in this behalf, may enter on any land and remove any obstructions, and may close any channels, and do any other thing necessary for ²[such application or use of the said water]. Powers of Canal officer.

7. As soon as is practicable after the issue of such notification the Collector shall cause public notice to be given at convenient places, stating that the ¹[State] Government intends to apply or use the said water as aforesaid, and that claims for compensation in respect of the matters mentioned in section 8 may be made before him. Notice as to claims for compensation.

¹Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

²In respect of any State Tube-well in section 6, for the words 'so named' the words 'named in a notification under section 3 of the Punjab State Tube-well Act, 1954' and for the words 'such application or use of the said water' the words 'the application or use of the underground water for the purpose of a State Tube-well' shall be deemed to be substituted.

Damage for which compensation shall not be awarded. 18. No compensation shall be awarded for any damage caused by—

- (a) stoppage or diminution of percolation or floods;
- (b) deterioration of climate or soil;
- (c) stoppage of navigation, or of the means of drifting timber or watering cattle;
- (d) displacement of labour.

Matters in respect of which compensation may be awarded.

But compensation may be awarded in respect of any of the following matters :—

- (e) stoppage or diminution of supply of water through any natural channel to any defined artificial channel, whether above or under ground, in use at the date of the said notification;
- (f) stoppage or diminution of supply of water to any work erected for purposes of profit on any channel; whether natural or artificial in use at the date of the said notification;
- (g) stoppage or diminution of supply of water through any natural channel which has been used for purposes of irrigation within the five years next before the date of the said notification;
- (h) damage done in respect of any right to a watercourse or the use of any water to which any person is entitled under the ¹Indian Limitation Act, 1877, Part IV.
- (i) any other substantial damage, not falling under any of the above clause (a), (b), (c) or (d), and caused by the exercise of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation.

XV of
1877.

¹In respect of any State Tube-well, clauses (a) and (c) and the reference thereto in clause (i) shall be deemed to be omitted. In clause (g) for the words "through any natural channel which has been used for purposes of irrigation", the words "in any well which has been used" shall be deemed to be substituted.

²See now the Limitation Act, 1963, (36 of 1963).

In determining the amount of such compensation, regard shall be had to the diminution in the market-value at the time of awarding compensation, of the property in respect of which compensation is claimed; and, where such market-value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property caused by the exercise of the powers conferred by this Act.

XV of
1877.

No right to any such supply of water as is referred to in clause (e), (f) or (g) of this section, in respect of a work or channel not in use at the date of the notification, shall be acquired as against the ¹[State] Government, except by grant or under the ²Indian Limitation Act, 1877, Part IV;

and no right to any of the advantages referred to in ³clauses (a), (b) and (c) of this section shall be acquired, as against the ¹[State] Government, under the same Part.

9. No claim for compensation for any such stoppage, diminution or damage shall be made after the expiration of one year from such stoppage, diminution or damage, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period. Limitation of claims.

X of
1870.

10. The Collector shall proceed to enquire into any such claim, and to determine the amount of compensation, if any, which should be given to the claimant; and sections 9 to 12 (inclusive), 14 and 15, 18 to 23 (inclusive), 26 to 40 (inclusive), 51, 57, 58 and 59 of the ⁴Land Acquisition Act, 1870 shall apply to such inquiries : Enquiry into claims and amount of compensation.

Provided that, instead of the last clause of the said section 26 the following shall be read:—"The provisions of this section and of section 8 of the Northern

¹Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

²See now the Limitation Act, 1963 (36 of 1963).

³For the words and brackets "clauses (a), (b) and (c)", the word and brackets "clause (b)" shall be deemed to be substituted in respect of any State Tube-well".

⁴See now the Land Acquisition Act, 1894 (I of 1894).

India Canal and Drainage Act, 1873, shall be read to every assessor in a language which he understands, before he gives his opinion as to the amount of compensation to be awarded."

Abatement of rent on interruption of water-supply.

11. Every tenant holding under an unexpired lease, ¹[* * *], who is in occupation of any land at the time when any stoppage or diminution of water-supply, in respect of which compensation is allowed under section 8, takes place, may claim an abatement of the rent previously payable by him for the said land, on the ground that the interruption reduces the value of the holding.

Enhancement of rent on restoration of water-supply.

12. If a water-supply increasing the value of such holding is afterwards restored to the said land, the rent of the tenant may be enhanced, in respect of the increased value of such land due to the restored water-supply, to an amount not exceeding that at which it stood immediately before the abatement.

Such enhancement shall be on account only of the restored water-supply, and shall not affect the liability of the tenant to enhancement of rent on any other grounds.

Compensation when due.

13. All sums of money payable for compensation under this Part shall become due three months after the claim for such compensation is made in respect of the stoppage, diminution or damage complained of,

Interest.

and simple interest at the rate of six per cent per annum shall be allowed on any such sum remaining unpaid after the said three months, except where the non-payment of such sum is caused by the wilful neglect or refusal of the claimant to receive the same.

PART III.

Of the Construction and Maintenance of Works.

Power to enter and survey, etc.

14. Any Canal-officer, or other person acting under the general or special order of a Canal-officer,

may enter upon any lands adjacent to any canal, or through which any canal is proposed to be made, and undertake surveys or levels thereon;

and dig and bore into the sub-soil;

¹The words "or having a right of occupancy" omitted by Punjab Act, 14 of 1968, section 2.

and make and set up suitable land-marks, level-marks and water-gauges;

and do all other acts necessary for the proper prosecution of any enquiry relating to any existing or projected canal under the charge of the said Canal officer;

and where otherwise such enquiry cannot be completed, such officer or other person may cut down and clear away any part of any standing crop, fence or jungle ;

Power to clear land.

and may also enter upon any land, building or watercourse on account of which any water-rate is chargeable, for the purpose of inspecting or regulating the use of the water-supply, or of measuring the lands irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of such canal :

Power to inspect and regulate water-supply.

Provided that, if such Canal-officer or person proposes to enter into any building or enclosed court or garden attached to a dwelling-house not supplied with water flowing from any canal, he shall previously give the occupier of such building, court or garden at least seven days' notice in writing of his intention to do so.

Notice of intended entry into houses.

In every case of entry under this section, the Canal-officer shall, at the time of such entry, tender compensation for any damage which may be occasioned by any proceeding under this section; and, in case of dispute as to the sufficiency of the amount so tendered, he shall forthwith refer the same for decision by the Collector, and such decision shall be final.

Compensation for damage caused by entry.

51. In case of any accident happening or being apprehended to a canal any Divisional Canal-officer or any person acting under his general or special orders in this behalf may enter upon any lands adjacent to such canal, and may execute all works which may be necessary for the purpose of repairing or preventing such accident.

Power to enter for repairs and to prevent accidents.

Compensation
for damage to
land.

In every such case such Canal-officer or person shall tender compensation to the proprietors or occupiers of the said lands for all damage done to the same. If such tender is not accepted, the Canal-officer shall refer the matter to the Collector, who shall proceed to award compensation for the damage as though the ¹[State] Government had directed the occupation of the lands under section 43 of the Land Acquisition Act, 1870.²

X of
1870.

³[16. * * * * *]

State Govern-
ment to provide
means of cross-
ing canals.

17. There shall be provided, at the cost of the ¹[State] Government, suitable means of crossing canals constructed or maintained at the cost of the ¹[State] Government, at such places as the ¹[State] Government thinks necessary for the reasonable convenience of the inhabitants of the adjacent lands.

On receiving a statement in writing, signed by not less than five of the owners of such lands, to the effect that suitable crossings have not been provided on any canal, the Collector shall cause enquiry to be made into the circumstances of the case, and if he thinks that the statement is established, he shall report his opinion thereon for the consideration of the ¹[State] Government, and the ¹[State] Government shall cause such measures in reference thereto to be taken as it thinks proper.

Person using
watercourse to
construct works
for passing
water across
road.

18. The Divisional Canal-officer may issue an order to the persons using any watercourse to construct suitable bridges, culverts or other works for the passage of the water of such watercourse across any public road, canal or drainage-channel in use before the said watercourse was made or to repair any such works.

¹Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

²See now the Land Acquisition Act, 1894 (1 of 1894); Unrepealed Central Acts, Vol. III.

³Omitted by Punjab Act, 23 of 1963, section 2.

Such order shall specify a reasonable period within which such construction or repairs shall be completed.

and if, after the receipt of such order, the persons to whom it is addressed do not, within the said period, construct or repair such works to the satisfaction of the said Canal-officer, he may, with the previous approval of the Superintending Canal-officer, himself construct or repair the same ;

If they fail,
Canal-officer
may construct
and recover
cost.

and if the said persons do not, when so required pay the cost of such construction or repairs as declared by the Divisional Canal-officer, the amount shall, on the demand of the Divisional Canal Officer, be recoverable from them by the Collector as if it were an arrear of land revenue.

19. If any person, jointly responsible with others for the construction or maintenance of a watercourse, or jointly making use of a watercourse with others, neglects or refuses to pay his share of the cost of such construction or maintenance, or to execute his share of any work necessary for such construction or maintenance, the Divisional or Sub-Divisional Canal-officer, on receiving an application in writing from any person injured by such neglect or refusal, shall serve notice on all the parties concerned that, on the expiration of a fortnight from the service, he will investigate the case, and shall, on the expiration of that period, investigate the case accordingly, and make such order thereon as to him seems fit.

Adjustment of
claims between
persons jointly
using water-
course.

Such order shall be appealable to the Commissioner, whose order thereon shall be final.

Any sum directed by such order to be paid within a specified period may, if not paid within such period, and if the order remains in force, be recovered by the Collector, from the person directed to pay the same, as if it were an arrear of land-revenue.

Recovery of
amount found
due.

Supply of water
through inter-
vening water-
course.

20. Whenever application is made to a Divisional Canal-officer for a supply of water from a canal, and it appears to him expedient that such supply should be given and that it should be conveyed through some existing watercourse, he shall give notice to the persons responsible for the maintenance of such watercourse to show cause, on a day not less than fourteen days from the date of such notice, why the said supply should not be so conveyed: and, after making enquiry on such day, the Divisional Canal-officer shall determine whether and on what conditions the said supply shall be conveyed through such watercourse.

When such officer determines that a supply of canal-water may be conveyed through any watercourse as aforesaid, his decision shall, when confirmed or modified by the Superintending Canal-officer, be binding on the applicant and also on the persons responsible for the maintenance of the said watercourse.

Such applicant shall not be entitled to use such watercourse until he has paid the expense of any alteration of such watercourse necessary in order to his being supplied through it, and also such share of the first cost of such watercourse as the Divisional or Superintending Canal-officer may determine.

Such applicant shall also be liable for his share of the cost of maintenance of such watercourse so long as he uses it.

21. [* * * * *]

22. [* * * * *]

Application for
transfer of ex-
isting water-
course.

23. Any person desiring that an existing watercourse should be transferred from its present owner to himself may apply in writing to the Divisional Canal-officer, stating—

- (1) that he has endeavoured unsuccessfully to procure such transfer from the owner of such watercourse :
- (2) that he desires the said Canal-officer, in his behalf and at his cost, to do all things necessary for procuring such transfer :

¹Section 21 omitted by Punjab Act, 23 of 1965, section 2.

²Section 22 omitted by Punjab Act, 23 of 1965.

(3) that he is able to defray the cost of such transfer.

If the Divisional Canal-officer considers—

(a) that the said transfer is necessary for the better management of the irrigation from such watercourse; and

(b) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Divisional Canal-officer considers necessary to defray the cost of preliminary proceedings, and the amount of any compensation that may become due under the provisions of section 28 in respect of such transfer; and upon such deposit being made, he shall publish a notice of the application in every village, and shall send a copy of the notice to the Collector of every district through which such watercourse passes.

²[24. Within twenty-one days from the publication of a notice under section 23, any person interested in the watercourse to which the notice refers may apply to the Collector by petition stating his objection to the transfer for which application has been made.]

Objections to transfer applied

The Collector may either reject the petition or may proceed to inquire into the validity of the objection, giving previous notice to the Divisional Canal-officer of the place and time at which such inquiry will be held.

The Collector shall record in writing all orders passed by him under this section and the grounds thereof.

25. If no such objection is made, or (where such objection is made) if the Collector over-rules it, he shall give notice to the Divisional Canal-officer to that effect, and shall proceed forthwith to place the said applicant in occupation of the ³[watercourse to be transferred.]

When applicant may be placed in occupation.

¹The words "construction or" omitted by the Punjab Act, 23 of 1965, section 3.

²First paragraph of section 24 substituted by *ibid.*

³Substituted by Punjab Act, 23 of 1965, section 4.

Procedure when objection is held valid.

26. If the Collector considers any objection made as aforesaid to be valid he shall inform the Divisional Canal-officer accordingly. [* * 1 * *]

Procedure when Canal-officer disagrees with Collector.

27. If the Canal-officer disagrees with the Collector, the matter shall be referred for decision to the Commissioner.

Such decision shall be final, and the Collector, if he is so directed by such decision, shall, subject to the provisions of section 28, cause the said applicant to be placed in occupation of the ²[watercourse to be transferred.]

Expenses to be paid by applicant before receiving occupation.

28. No such applicant shall be placed in occupation of such ³[watercourse until he has paid to the person named by the Collector such amount as the Collector determines to be due as compensation for the ³[xxx], ⁴[watercourse so transferred, together with all expenses incidental to such transfer.]

Procedure in fixing compensation.

In determining the compensation to be made under this section the Collector shall proceed under the provisions of the Land Acquisition Act, 1870⁵; but he may, if the person to be compensated so desires, award such compensation in the form of a rent-charge payable in respect of the ⁶[watercourse 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 as if it were an arrear of land-revenue, and shall, when recovered, be paid by him to the person entitled to receive the same.

Conditions binding on applicant placed in occupation of watercourse.

⁷[29. When any such applicant is placed in occupation of a watercourse as aforesaid, the following

¹The words "and if such officer as before provided" omitted by Punjab Act 23 of 1965, section 5.

²Substituted by Punjab Act 23 of 1965, section 6.

³The words "land or" omitted by Punjab Act 23 of 1965, section 7

⁴Substituted by *ibid*.

⁵See now the Land Acquisition Act, 1894 (I of 1894).

⁶Substituted by Punjab Act 23 of 1965, section 7.

⁷Section 29 substituted by Punjab Act 23 of 1965, section 8.

rules and conditions shall be binding on him and his representative in interest:—

First.—All works necessary for the passage across such watercourse existing previous to its construction and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the neighbouring lands, shall be constructed by the applicant, and be maintained by him or his representative in interest to the satisfaction of the Divisional Canal-officer.

Second.—Land occupied for the watercourse shall be used only for the purpose of such watercourse.

In cases in which a watercourse is transferred on the terms of a rent charge.

Third.—The applicant or his representative in interest shall, so long as he occupies such watercourse, 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.

Fourth.—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 centum per annum from the date on which it became due, as if it were an arrear of land-revenue, and shall pay the same, when recovered, to the person to whom it is due.

If any of the rules and conditions prescribed by this section are not complied with, or

if any watercourse transferred under this Act, is disused for three years continuously,

the right of the applicant, or of his representative in interest, to occupy such watercourse shall cease absolutely.]

30. ¹[* * * * *].

²[30-A. (1) Notwithstanding anything contained to the contrary in this Act and subject to the rules prescribed by, the State Government in this behalf, the ³[Divisional Canal Officer] may, on his own motion or on the application of a shareholder, prepare a draft scheme to provide for all or any of the matters, namely :—

- (a) the construction, alteration, extension and alignment of any watercourse or realignment of any existing watercourse ;
- (b) reallocation of areas served by one watercourse to another ;
- (c) the lining of any watercourse;
- ⁴[(cc) the occupation of land for the deposit of soil from watercourse clearances;]
- (d) any other matter which is necessary for the proper maintenance and distribution of supply of water from a watercourse.

(2) Every scheme prepared under sub-section (1) shall, amongst other matters, set out the estimated cost thereof, the alignment of the proposed watercourse or realignment of the existing watercourse, as the case may be, the site of the outlet, the particulars of the shareholders to be benefited and other persons who may be affected thereby, and a sketch plan of the area proposed to be covered by the scheme.

⁵[30-B. (1) Every scheme shall, as soon as may be after its preparation, be published in such form and manner as may be prescribed by rules made in

¹Section 30 omitted by Punjab Act 23 of 1965, section 2.

²New sections 30-A, 30-B, 30-C, 30-D, 30-E, 30-F and 30-G, added by Punjab Act 21 of 1958.

³The words "Divisional Canal Officer" and "Superintending Canal Officer" wherever occurring in sections 30-A, 30-B, 30-C, 30-D, 30-E and 30-F were substituted by words "Sub-Divisional Canal Officer" and "Divisional Canal Officer" by Punjab Act 21 of 1963 and were subsequently reversed by Punjab Act 23 of 1965, section 9.

⁴New clause (cc) added by Punjab Act 23 of 1965, section 9.

⁵Section 30-B substituted by Punjab Act 23 of 1965, section 10.

this behalf inviting objections and suggestions with respect thereof within twenty-one days of the publication.

(2) After considering such objections and suggestions, if any, the Divisional Canal Officer shall approve the scheme either as it was originally prepared or in such modified form as he may consider fit.

(3) The Superintending Canal Officer may, *suo motu* at any time or on an application by any person aggrieved by the approved scheme made within a period of thirty days from the date of publication of the particulars of the scheme under section 30-C, revise the scheme approved by the Divisional Canal Officer :

Provided that such revision shall not be made without affording to the person affected an opportunity of being heard.]

¹[30-C. The Divisional Canal Officer shall, as soon as may be, publish the particulars of the scheme approved by him under sub-section (2) of section 30-B in the prescribed manner and call upon the shareholders to implement it at their own cost within the period to be specified by him.]

30-D. (1) The ²[Divisional Canal Officer] may, either of his own motion or on the application of a shareholder, publish in the manner prescribed a notice of his intention to acquire any land required for implementation of the scheme.

(2) Any person interested in the land notified under sub-section (1) may, within fifteen days from the publication thereof, apply to the [Divisional Canal Officer]² by petition stating his objections to the proposed acquisition of his rights.

(3) After considering the objections, the [Divisional Canal Officer]² may proceed to take the occupation of the land so required on behalf of the shareholders.

(4) Compensation, to be fixed by the [Divisional Canal Officer]² on the principles set out under section 23 of the Land Acquisition Act, 1894, shall be payable by

¹Section 30-C substituted by Punjab Act 23 of 1965, section 11.

²The words "Divisional Canal Officer" and "Superintending Canal Officer" wherever occurring were substituted by words "sub-Divisional Canal Officer" and "Divisional Canal Officer" by Punjab Act 21 of 1963 and were subsequently reversed by Punjab Act 23 of 1965, section 9.

the shareholders in proportion to the culturable commanded area under the scheme held by each one of them to the owner or occupier of any land for such acquisition and on failure of payment, the amount shall be recoverable as arrears of land revenue.

(5) A person aggrieved from the order of the [Divisional Canal Officer]¹ in respect of compensation may prefer an appeal within thirty days of the passing of the order to the Collector whose decision shall be final.

30-E. On failure of any shareholder to execute the work within the period specified in the notice under section 30-C the [Divisional Canal Officer]¹ may proceed to carry out the work himself and the cost in proportion to the culturable commanded area under the scheme held by them shall be recoverable from the shareholders as arrears of the land revenue.

30-F. On execution of the scheme, the [Divisional Canal Officer]¹ shall, by requisition in writing, direct the shareholders to take over and maintain the watercourse and on failure of the shareholders to comply with this direction, he shall make arrangements for maintenance of the watercourse at the shareholders' cost in proportion to the culturable commanded area under the scheme held by them and the same shall be recoverable as arrears of land revenue.

²[**30-FF.** (1) If a person demolishes, alters, enlarges or obstructs a watercourse or causes any damage thereto, any person affected thereby may apply to the Divisional Canal Officer for directing the restoration of the watercourse to its original condition.

(2) On receiving an application under sub-section (1), the Divisional Canal Officer may, after making such enquiry as he may deem fit, require, by a notice in writing served on the person found to be responsible for so demolishing, altering, enlarging, obstructing or causing damage to restore, at his own cost, the watercourse to its original condition within such period as may be specified in the notice.

¹The words "Divisional Canal Officer" and "Superintending Canal Officer" wherever occurring, were substituted by words "Sub-Divisional Canal Officer" and "Divisional Canal Officer" by Punjab Act 21 of 1963 and were subsequently reversed by Punjab Act 23 of 1965.

²New section 30-FF added by Punjab Act 23 of 1965, section 13.

(3) If such person fails to the satisfaction of the Divisional Canal Officer, to restore the watercourse to its original condition within the period specified in the notice served on him under sub-section (2), the Divisional Canal Officer may cause the watercourse to be restored to its original condition and recover the cost incurred in respect of such restoration from the defaulting person.

(4) Any person aggrieved by the order of the Divisional Canal Officer may prefer an appeal, within thirty days of the passing of such order, to the Superintending Canal Officer, whose decision on such appeal shall be final.

(5) Any sum which remains unpaid within a period to be specified for this purpose by the Divisional Canal Officer may be recovered by the Collector from the defaulting person as if it were an arrear of land revenue.]

30-G. Notwithstanding anything contained in this Act or any other law for the time being in force, no Civil Court shall have jurisdiction to entertain or decide any question relating to matters falling under sections 30-A to ¹[30-F.F].

PART IV

OF THE SUPPLY OF WATER

31. In the absence of a written contract, or so far as any such contract does not extend, every supply of canal-water shall be deemed to be given at the rates and subject to the conditions prescribed by the rules to be made by the ²[State] Government in respect thereof.

32. Such contract and rules must be consistent with the following conditions :—

(a) The Divisional Canal-officer may not stop the supply of water to any watercourse, or to any person, except in the following cases:—

(1) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent

¹Substituted for "30-F" by Punjab Act 23 of 1965, section 14.

²Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

³In respect of any State Tube-well, the words "and with the previous sanction of the State Government" occurring in sub-clause (1) of clause (a) of section 32, shall be deemed to be omitted. Clause (d) shall also be deemed to be omitted.

authority and with the previous sanction of the ¹[State] Government.

- (2) whenever and so long as any watercourse is not maintained in such proper customary repair as to prevent the wasteful escape of water therefrom ;
- (3) within periods fixed from time to time by the Divisional Canal Officer.
- (b) No claim shall be made against the ¹[State] Government for compensation in respect of loss caused by the failure or stoppage of the water in a canal, by reason of any cause beyond the control of the ¹[State] Government, or of any repairs, alterations or additions to the canal, or of any measures taken for regulating the proper flow of water therein, or for maintaining the established course of irrigation which the Divisional Canal Officer considers necessary; but the person suffering such loss may claim such remission of the ordinary charges payable for the use of the water as is authorised by the ¹[State] Government.
- (c) If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in the last preceding clause, the occupier or owner of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Collector may award to the petitioner reasonable compensation for such loss.
- (d) When the water of a canal is supplied for the irrigation of a single crop, the permission to use such water shall be held to continue only until that crop comes to maturity, and to apply only to that crop; but, if it be supplied for irrigating two or more crops to be raised on the same land within the year, such permission shall be held to continue for one year from the commencement of the irrigation, and to apply to such crops only as are matured within that year.

Claims to compensation in case of failure or stoppage of supply.

Claims on account of interruption from other causes.

Duration of supply.

¹Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

- (e) Unless with the permission of the Superintending Canal-officer, no person entitled to use the water of any canal, or any work, building or land appertaining to any canal shall sell or sublet or otherwise transfer his right to such use :

Sale or subletting of right to use canal-water.

Provided that the former part of this clause shall not apply to the use by a cultivating tenant of water supplied by the owner of a watercourse for the irrigation of the land held by such tenant :

But all contracts made between the ¹[State] Government and the owner or occupier of any immovable property as to the supply of canal-water to such property, shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such property takes place.

Transfer, with land, of contracts for water.

- (f) No right to the use of the water of a canal shall be, or be deemed to have been, acquired under the ²Indian Limitation Act, 1877, Part IV, nor shall the ¹[State] Government be bound to supply any person with water except in accordance with the terms of a contract in writing.

No right acquired by user.

XV of 1877.

PART V OF WATER-RATES.

33. If water supplied through a ³[canal] be used in an unauthorised manner, and if the person by whose act or neglect such use has occurred cannot be identified,

Liability when persons using unauthorisedly 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 ³[canal] shall be liable, or jointly liable, as the case may be to the charges made for such use.

34. If water supplied through a ³[canal] be suffered to run to waste, and if ⁴[* * *], the person through

Liability when water runs to waste.

¹Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

²See now the Limitation Act, 1963 (36 of 1963).

³Substituted for the word "watercourse" by Punjab Act 14 of 1968, sections 3 and 4.

⁴The words "after enquiring by the Divisional canal officer" omitted by Punjab Act 14 of 1968, section 4.

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 ¹[canal] shall be jointly liable for the charges made in respect of the water so wasted.

Charges recoverable in addition to penalties.

¹[35. (1) All charges for the unauthorised use or waste of water may be recovered in addition to any penalties incurred on account of such use or waste.

(2) All questions, including questions pending for disposal on the commencement of the Northern India Canal and Drainage (Punjab Amendment) Act, 1965, under section 33 or section 34 shall be decided by the Collector.

(3) An appeal shall lie to the Commissioner against the decision of the Collector under sub-section (2) within a period of thirty days from the date of such decision.

(4) The Financial Commissioner may *suo motu* at any time or on an application made in this behalf by an aggrieved person within a period of thirty days from the date of the order, revise an order passed in appeal under sub-section (3).]

Charge on occupier for water, how determined.

36. The rates to be charged for canal-water supplied for purposes of irrigation to the occupiers of land shall be determined by the rules^a to be made by the '[State] Government and such occupiers as accept the water shall pay for it accordingly.

"Occupier's rate."

A rate so charged shall be called the "occupier's rate".

¹[The rules hereinbefore referred to may prescribe and determine what persons or classes of persons are to be deemed to be occupiers for the purposes of this section and may also determine the several liabilities, in respect of the payment of the occupier's rate,

¹Substituted for the word "watercourse" by Punjab Act 14 of 1968, sections 3 and 4.

²Proviso and new paragraphs added to section 35 by Punjab Act 22 of 1960, and this section was subsequently substituted by Punjab Act 23 of 1965, section 15.

³For instance of such notifications, see 'Punjab Gazette', 1903, Pt. I, pp. 223 and 224.

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

⁵Added by the Northern India Canal and Drainage (Amendment) Act, 1899 (XVI of 1899), s. 2.

of tenants and of persons to whom tenants may have sublet their lands or of proprietors and of persons to whom proprietors may have let the lands held by them in cultivating occupancy.]

37. In addition to the occupier's rate a rate to be called the "owner's rate" may be imposed, according to rules to be made by the ¹[State] Government on the owners of canal-irrigated lands in respect of the benefit which they derive from such irrigation. "Owner's rate."

38. The owner's rate shall not exceed the sum which, under the rules for the time being in force for the assessment of land-revenue, might be assessed on such land on account of the increase in the annual value or produce thereof caused by the canal-irrigation. And, for the purpose of this section only, land which is permanently settled or held free of revenue shall be considered as though it were temporarily settled and liable to payment of revenue. Amount of owner's rate.

39. No owner's rate shall be chargeable either on the owner or occupier of land temporarily assessed to pay land-revenue at irrigation-rates, during the currency of such assessment. Owner's rate when not chargeable.

40 to 43. [When occupier to pay both rates : apportionment of owner's rate : when owing to pay owner's rate : effect of introduction of canal-irrigation on landlord's right to enhance.] Rep. by the Punjab Tenancy Act, 1887 (XVI of 1887), s. 3 and Sch.

44. Where a water-rate is charged on land held by several joint owners, it shall be payable by the manager or other person who receives the rents or profits of such land and may be deducted by him from such rents or profits before division, or may be recovered by him from the persons liable to such rate in the manner customary in the recovery of other charges on such rents or profits. Water-rate by whom payable when charged on land held by several owners.

Recovery of charges

45. Any sum lawfully due under this Part, and certified by the Divisional Canal Officer to be so due, Certified dues recoverable as land-revenue.

¹Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

which remains unpaid after the day on which it becomes due, shall be recoverable by the Collector from the person liable for the same as if it were an arrear of land-revenue.

Power to contract for collection of dues.

46. The Divisional Canal Officer or the Collector may enter into an agreement with any person for the collection and payment to the ¹[State] Government by such person of any sum payable under this Act by a third party.

When such agreement has been made, such person may recover such sum by suit as though it were a debt due to him, or an arrear of rent due to him on account of the land, work or building in respect of which such sum is payable, or for or in which the canal-water shall have been supplied or used.

If such person makes default in the payment of any sum collected by him under this section, such sum may be recovered from him by the Collector under section 45; and, if such sum or any part of it be still due by the said third party, the sum or part so due may be recovered in like manner by the Collector from such third party.

Lambardars may be required to collect canal-dues.

47. The Collector may require the lambardar, or person under engagement to pay the land-revenue of any estate, to collect and pay any sums payable under this Act by a third party, in respect of any land or water in such estate.

Such sums shall be recoverable by the Collector as if they were arrears of land-revenue due in respect of the defaulter's share in such estate ;

and for the purpose of collecting such sums from the subordinate zamindars, raiyats, ²[tenants or sub-tenants], such lambardar or person may exercise the powers, and shall be subject to the rules, laid down in the law for the time being in force in respect to the collection by him of the rents of land or of shares of land-revenue.

The ¹[State] Government shall provide :—

(a) for remunerating persons collecting sums under this section; or

¹Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

²Substituted for the words "or tenants" by the Northern India Canal and Drainage (Amendment) Act, 1899 (XVI of 1899), s. 3.

- (b) for indemnifying them against expenses properly incurred by them in such collection; or
- (c) for both such purposes.
48. Nothing in sections 45, 46 or 47 applies to fines. Fines excluded from sections 45, 46, 47.

PART VI

OF CANAL-NAVIGATION

49. Any vessel entering or navigating any canal contrary to the rules made in that behalf by the ^{Detainer of} vessels violating rules. [State] Government, or as to cause danger to the canal or the other vessels therein, may be removed or detained, or both removed and detained, by the Divisional Canal Officer, or by any other person duly authorised in this behalf.

The owner of any vessel causing damage to a canal, or removed or detained under this section, shall be liable to pay to the ^{Liability of} owners of vessels causing damage. [State] Government such sum as the Divisional Canal Officer, with the approval of the Superintending Canal Officer, determines to be necessary to defray the expenses of repairing such damage or of such removal or detention, as the case may be.

50. Any fine imposed under this Act upon the owner of any vessel, or the servant or agent of such owner or other person in charge of any vessel, for any offence in respect of the navigation of such vessel, may be recovered either in the manner prescribed by the Code of Criminal Procedure² or, if the Magistrate imposing the fine so directs, as though it were a charge due in respect of such vessel. Recovery of fines for offences in navigating canals.

51. If any charge due under the provisions of this Part in respect of any vessel is not paid on demand to the person authorised to collect the same, the Divisional Canal Officer may seize and detain such vessel and the furniture thereof, until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full Power to seize and detain vessel on failure to pay charges.

¹Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

²See now Act V of 1898. Unrepealed Central Acts, Vol. IV.

Power to seize cargo or goods, if charges due thereon are not paid.

52. If any charge due under the provisions of this Part in respect of any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purposes of a canal is not paid on demand to the person authorised to collect the same, the Divisional Canal Officer may seize such cargo or goods and detain them until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full.

Procedure for recovery of such charges after seizure.

53. Within a reasonable time after any seizure under section 51 or section 52, the said Canal Officer shall give notice to the owner or person in charge of the property seized that it, or such portion of it as may be necessary, will on a day to be named in the notice, but not sooner than fifteen days from the date of the notice, be sold in satisfaction of the claim on account of which such property was seized, unless the claim be discharged before the day so named.

And, if such claim be not so discharged, the said Canal Officer, may, on such day, sell the property seized or such part thereof as may be necessary to yield the amount due, together with the expenses of such seizure and sale :

Provided that no greater part of the furniture of any vessel or of any cargo or goods shall be so sold than shall, as nearly as may be, suffice to cover the amount due in respect of such vessel, cargo or goods.

The residue of such furniture, cargo or goods, and of the proceeds of the sale, shall be made over to the owner or person in charge of the property seized.

Procedure in respect of vessels abandoned and goods unclaimed.

54. If any vessel be found abandoned in a canal, or any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purposes of a canal, be left unclaimed for a period of two months, the Divisional Canal Officer may take possession of the same.

The officer so taking possession may publish a notice, that, if such vessel and its contents, or such cargo or goods, are not claimed previously to a day to

Power to seize cargo or goods, if charges due thereon are not paid.

52. If any charge due under the provisions of this Part in respect of any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purposes of a canal is not paid on demand to the person authorised to collect the same, the Divisional Canal Officer may seize such cargo or goods and detain them until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full.

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And, if such claim be not so discharged, the said Canal Officer, may, on such day, sell the property seized or such part thereof as may be necessary to yield the amount due, together with the expenses of such seizure and sale :

Provided that no greater part of the furniture of any vessel or of any cargo or goods shall be so sold than shall, as nearly as may be, suffice to cover the amount due in respect of such vessel, cargo or goods.

The residue of such furniture, cargo or goods, and of the proceeds of the sale, shall be made over to the owner or person in charge of the property seized.

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The officer so taking possession may publish a notice, that, if such vessel and its contents, or such cargo or goods, are not claimed previously to a day to

be named in the notice, not sooner than thirty days from the date of such notice, he will sell the same; and, if such vessel, contents, cargo or goods be not so claimed, he may, at any time after the day named in the notice, proceed to sell the same.

The said vessel and its contents, and the said cargo or goods if unsold, or, if a sale has taken place, the proceeds of the sale, after paying all tolls, charges and expenses incurred by the Divisional Canal Officer on account of the taking possession and sale, shall be made over to the owner of the same, when his ownership is established to the satisfaction of the Divisional Canal Officer. Disposal of proceeds of sale.

If the Divisional Canal Officer is doubtful to whom such property or proceeds should be made over, he may direct the property to be sold as aforesaid, and the proceeds to be paid into the district treasury, there to be held until the right thereto be decided by a Court of competent jurisdiction.

PART VII Of Drainage

55. Whenever it appears to the ¹[State] Government that injury to any land or the public health or public convenience has arisen or may arise from the obstruction of any river, stream or drainage-channel, such ¹[State] Government may, by notification published in the Official Gazette, prohibit, within limits to be defined in such notification, the formation of any obstruction, or may, within such limits, order the removal or other modification of such obstruction. Powers to prohibit obstructions or order of their removal.

Thereupon so much of the said river, stream or drainage-channel as is comprised within such limits shall be held to be a drainage-work as defined in section 3.

56. The Divisional Canal Officer, or other person authorised by the ¹[State] Government in that behalf may, after such publication issue an order to the person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in the order. Power to remove obstructions after prohibition.

¹Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

If, within the time so fixed, such person does not comply with the order, the said Canal Officer may himself remove or modify the obstruction; and if the person to whom the order was issued does not, when called upon, pay the expenses involved in such removal or modification, such expenses shall be recoverable by the Collector from him or his representative in interest as an arrear of land-revenue.

Preparation of schemes for works of improvement.

57. Whenever it appears to the ¹[State] Government that any drainage-works are necessary for the improvement of any lands, or for the proper cultivation or irrigation thereof.

or that protection from floods or other accumulations of water, or from erosion by a river, is required for any lands,

the ¹[State] Government may cause a scheme for such drainage-works to be drawn up and published, together with an estimate of its cost and a statement of the proportion of such cost which the ¹[State] Government proposes to defray, and a schedule of the lands which it is proposed to make chargeable in respect of the scheme.

²[57-A. The provisions contained in sections 30-A to 30-G shall apply to Field Drains as well.]

Powers of persons employed on such schemes.

58. The persons authorised by the ¹[State] Government to draw up such scheme may exercise all or any of the powers conferred on the Canal Officers by section 14.

Rate on lands benefited by works.

³[59. (1) The proportion of the cost, other than that which is to be defrayed by Government, in respect of such scheme, may be charged from the owners of all lands made chargeable under section 57, in accordance with rules made by the ¹[State] Government in this behalf.

(2) An owner shall be competent to contribute towards the charges payable by him either wholly or

¹Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

²New section 57-A added by Punjab Act 21 of 1958.

³Substituted in its application to Punjab by Act, (19 of 1953, section

in part in terms of land, labour or cash in the manner prescribed by rules made in this behalf.]

¹[60. Any sum certified by the Divisional Canal Officer to be due under the last preceding section and which remains unpaid after the expiry of the period during which it was payable, shall be recoverable from the owner liable for the same as if it were an arrear of land revenue.] Recovery of rate.

61. Whenever, in pursuance of a notification made under section 55, any obstruction is removed or modified, Disposal of claims to compensation.

or whenever any drainage-work is carried out under section 57,

all claims for compensation on account of any loss consequent on the removal or modification of the said obstruction or the construction of such work may be made before the Collector, and he shall deal with the same in the manner provided in section 10.

62. No such claim shall be entertained after the expiration of one year from the occurrence of the loss complained of, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period. Limitation of such claims.

²[PART VIII]

[* * *]

PART IX

OF JURISDICTION.

67. Except where herein otherwise provided, all claims against the ³[State] Government in respect of anything done under this Act may be tried by the Civil Courts; but no such Court shall in any case pass an order as to the supply of canal-water to any crop sown or growing at the time of such order. Jurisdiction under this Act of Civil Courts.

⁴[68. (1) The Deputy Collector, may, if in his opinion it is necessary so to do, pass an order as to the use or distribution of water from a watercourse amongst persons in any estate or a group of estates or in any holding or group of holdings in such estate or estates : Power of Deputy Collector to order use or distribution of water and settlement of differences as to mutual rights and liabilities of persons interested in water-course.

¹Substituted in its application to Punjab by Punjab Act, 19 of 1953, section 3.

²Whole Part VIII omitted by Punjab Act 14 of 1968.

³Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

⁴Section 68 substituted by Punjab Act 21 of 1963.

Provided that no such order shall be passed by the Deputy Collector without making an inquiry into the matter and without giving a notice to all the persons interested that, on a day to be named in such notice, he shall proceed to inquire into the said matter.

(2) Whenever a difference arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a watercourse, any such person may apply in writing to the Deputy Collector stating the matter in dispute.

(3) On receipt of an application under sub-section (2), the Deputy Collector shall give notice to the other persons interested that, on a day to be named in such notice, he shall proceed to inquire into the said matter and after the inquiry he shall pass an order thereon.

(4) An order passed under sub-section (1) or sub-section (3) as to the use or distribution of water for any crop sown or growing at the time when such order is made or with regard to the construction or maintenance of a watercourse shall, subject to an order passed on appeal or revision under sub-sections (5) and (6), be final.

(5) An appeal shall lie to the Divisional Canal Officer against an order referred to in sub-section (4) within a period of thirty days from the date of such order.

(6) The ¹[Superintending Canal Officer], within whose jurisdiction the watercourse is situated, may, *suo motu* or on an application made in this behalf by an aggrieved person, revise an order passed in appeal by a Divisional Canal Officer under sub-section (5):

Provided that no such application shall lie unless it is made within a period of thirty days from the date of such order.

(7) No order passed under this section shall be liable to be called in question in any civil court.]

Power to summon and examine witnesses.

69. Any officer empowered under this Act to conduct any enquiry may exercise all such powers connected with the summoning and examining of witnesses as are conferred on Civil Courts by the Code of

¹Substituted for the words "chief engineer" by Punjab Act 23 of 1965, section 16.

Civil Procedure, and every such enquiry shall be deemed a judicial proceeding.

PART X

OF OFFENCES AND PENALTIES

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

- (1) damages, alters, enlarges or obstructs any canal or drainage-work ;
- ¹(2) interferes with, increases or, diminishes the supply of water in, or flow of water from, through, over or under, any canal or drainage-work;
- (3) interferes with or alters the flow of water in any river or stream, so as to endanger, damage or render less useful any canal or drainage-work;
- (4) being responsible for the maintenance of a watercourse, or using a watercourse, 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) being liable to furnish labourers under as to render it less fit for the purposes for which it is ordinarily used;
- (6) causes any vessel to enter or navigate any canal contrary to the rules for the time being prescribed by the ²[State] Government for entering or navigating such canal;

¹See now the Code of Civil Procedure, 1908 (Act 5 of 1908).

²In respect of any State Tube-well, in clause (2) of section 70, the words "except by the construction of a Tube-well", shall be deemed to be inserted before the word "interferes", and clauses (6) to (9) of section 70 shall be deemed to be omitted.

³Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(7) while navigating on any canal, neglects to take proper precautions for the safety of the canal and of vessels thereon;

¹[(8) * * * (9)]

(10) destroys or moves any level-mark or water-gauge fixed by the authority of a public servant;

(11) passes, or causes animals or vehicles to pass, on or across any of the works, banks or channels of a canal or drainage-work contrary to rules made under this Act, after he has been desired to desist therefrom;

(12) violates any rule made under this Act, for breach whereof a penalty may be incurred ;

Penalty.

shall be liable, on conviction before a Magistrate of such class as the ²[State] Government directs in this behalf, to a fine not exceeding ³[one hundred] rupees, or to imprisonment not exceeding one month, or to both.

Saving of prosecution under other laws.

71. Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence punishable under this Act :

Provided that no person shall be punished twice for the same offence.

Compensation to persons injured.

72. Whenever any person is fined for an offence under this Act, the Magistrate may direct that the whole or any part of such fine may be paid by way of compensation to the person injured by such offence.

Power to arrest without warrant.

73. Any person in charge of or employed upon any canal or drainage-work may remove from the lands on 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 or drainage-work;

¹Omitted by Punjab Act 14 of 1968.

²Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

³Substituted for the word "fifty" by Punjab Act 23 of 1965, section 17.

- (2) Without proper authority interferes with the supply or flow of water in or from any canal or drainage-work, or in any river or stream, so as to endanger damage or render less useful any canal or drainage-work.

74. In this Part the word "canal" shall (unless there be something repugnant in the subject or context) be deemed to include also all lands occupied by the ¹[State] Government for the purposes of canals, and all buildings, machinery, fences, gates and other erections, trees, crops, plantations or other produce occupied by or belonging to ¹[State] Government upon such lands.

Definition of "canal." of

PART XI

OF SUBSIDIARY RULES.

75. The ¹[State] Government may from time to time ²* * * * * make rules to regulate the following matters:—

Power to make, alter and cancel rules.

- (1) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;
- (2) the cases in which, and the officers to whom and the conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable;
- (3) the persons by whom, ³[and] the time, place or manner at or in which anything for the doing of which provision is made under this Act, shall be done;
- (4) the amount of any charge made under this Act; and

¹Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

²The words "subject to the control of Governor-General in Council" were omitted by the Devolution Act, 1920 (38 of 1920)

³Inserted by the Amending Act, 1891 (12 of 1891).

(5) generally to carry out the provisions of this Act.

The ¹[State] Government may from time to time,
^{2*} * * * alter or cancel any rules so made.

Publication of rules. Such rules, alterations and cancelments shall be published in the ³[Official Gazette], and shall thereupon have the force of law.

SCHEDULE.

[Rep. by Act XII of 1873, s. 1 and Sch., Pt. II]

¹Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

²The words "subject to the like control" were omitted by the Devolution Act, 1920 (38 of 1920).

³Substituted for the words "Local Official Gazette" by the Government of India (Adaptation of Indian Laws) Order, 1937.

PART I

GOVERNMENT OF PUNJAB

**DEPARTMENT OF LEGAL AND LEGISLATIVE AFFAIRS, PUNJAB
NOTIFICATION**

The 27th February, 2015

No.7-Leg./2015.-The following Act of the Legislature of the State of Punjab received the assent of the Governor of Punjab on the 28th Day of January, 2015, is hereby published for general information:-

**THE NORTHERN INDIA CANAL AND DRAINAGE
(PUNJAB AMENDMENT) ACT, 2014**

(Punjab Act No. 7 of 2015)

AN

ACT

further to amend the Northern India Canal and Drainage Act, 1873 in its application to the State of Punjab.

BE it enacted by the Legislature of the State of Punjab in the Sixty-fifth Year of the Republic of India, as follows:-

1. (1) This Act may be called the Northern India Canal and Drainage (Punjab Amendment) Act, 2014. Short title and commencement.

(2) It shall come into force on and with effect from the date of its publication in the Official Gazettee.

2. In the Northern India Canal and Drainage Act, 1873, in its application to the State of Punjab, (hereinafter referred to as the principal Act), for section 36, the following section shall be substituted, namely:- Substitution of section 36 of Punjab Act VIII of 1873.

“36. The State Government may levy a water cess on the occupiers of land, who use canal water for the purposes of irrigation at the rate to be determined by the State Government from time to time and such occupiers, as accept the water, shall pay for water cess accordingly. Such water cess shall be payable within such time and in such manner, as may be prescribed. The water cess so collected, shall be used by the State Government for maintenance and development of irrigation infrastructure.

Levy of water cess for Maintenance and Development of Irrigation Infrastructure.

The rules hereinbefore referred to may prescribe and determine what persons or classes of persons are to be deemed to be occupiers for the purposes of this section and may also determine the several liabilities, in respect of the payment of water cess of tenants and of persons to whom tenants may have sublet their lands or of proprietors and of persons to whom proprietors may have let the lands held by them in cultivating occupancy.”.

3. In the the principal Act, sections 37, 38 and 39 shall be omitted. Omission of sections 37, 38 and 39 of Punjab Act VIII of 1873.
4. In the principal Act, in section 44,—
(i) for the existing heading, the following heading shall be substituted, namely:—
“Water-cess by whom payable when charged on land held by several owners.”.
(ii) in the first line, for the words and sign “water-rate”, the words and sign “water-cess” shall be substituted. Amendment of section 44 of Punjab Act VIII of 1873.
5. (1) The Northern India Canal and Drainage (Punjab Amendment) Ordinance, 2014 (Punjab Ordinance No. 3 of 2014), is hereby repealed. Repeal and saving.
- (2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the ordinance referred to in sub-section (1), shall be deemed to have been done or taken under the principal Act, as amended by this Act.

H.P.S. MAHAL,
Secretary to Government of Punjab,
Department of Legal and Legislative Affairs.

PART III

GOVERNMENT OF PUNJAB
DEPARTMENT OF PERSONNEL
(Personnel Policies-1 Branch)

NOTIFICATION

The 23rd February, 2015

No. G.S.R.1/Const./Art.309/Amd.(14)/2015.-In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and all other powers enabling him in this behalf, the Governor of Punjab is pleased to make the following rules further to amend the Punjab Civil Services (General and Common Conditions of Service) Rules, 1994, namely:-

RULES

1. (1) These rules may be called the Punjab Civil Services (General and Common Conditions of Service) (Amendment) Rules, 2015.
(2) They shall come into force on and with effect from the date of their publication in the Official Gazette.
2. In the Punjab Civil Services (General and Common Conditions of Service) Rules, 1994, in rule 7, in sub-rule (2), for the word “two”, the word “one” shall be substituted.

SARVESH KAUSHAL,
Chief Secretary to Government of Punjab.

PART III
GOVERNMENT OF PUNJAB
DEPARTMENT OF EXCISE AND TAXATION
(EXCISE AND TAXATION-II BRANCH)

NOTIFICATION

The 26th February, 2015

No. S.O.8/P.A.8/2005/S.8/2015.-Whereas the State Government is satisfied that circumstances exist, which render it necessary to take immediate action in public interest;

Now, therefore, in exercise of the powers conferred by sub-section (3) of section 8 of the Punjab Value Added Tax Act, 2005 (Punjab Act No. 8 of 2005), and all other powers enabling him in this behalf, the Governor of Punjab is pleased to make the following amendment in Schedule 'A' appended to the said Act, with immediate effect, dispensing the condition of previous notice, namely:-

AMENDMENT

In the said Schedule 'A',-

- (i) Serial No. 21 and the entries relating thereto shall be omitted;
- (ii) In Serial No. 34, for the words and signs "Meat, fish, prawn", the words and signs "Fresh vegetables, fruits, meat (i.e. raw meat, chicken or fish), whether cured or frozen or preserved or not, till their nature or function is not changed by these processes," shall be substituted;
- (iii) In Serial No. 87,-
 - (a) In Note-I, for the words, figures and letters "in retail packing of up to 10kg" and "in the packing of 10kg", the words, figures, letters and sign "in retail packing of any unit such as 1kg/litre, 2kg/litre and so on upto 10kg/litre, as the case may be," and "in the packing of 10kg/litre" shall, respectively, be substituted; and
 - (b) in Note-II, for the words, figures and letters "in retail packing of upto 1kg" and "in the packing of 1kg", the words, figures, letters and sign "in retail packing of any unit such as 100g/ml, 200g/ml and so on upto 1kg/litre, as the case may be," and "in the packing of 1kg/litre" shall, respectively, be substituted.

D.P. REDDY,

Financial Commissioner Taxation and
Secretary to Government of Punjab,
Department of Excise and Taxation.