

The Northern India Ferries Act, 1878

PUNJAB

India

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Act 17 of 1878

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The Northern India Ferries Act, 1878Central Act 17 of 1878Statement of Objects and Reasons. - An Act for the regulation of ferries in the Punjab is much needed. Upto the 1st June, 1872, when Act No. IV of 1872 (The Punjab Laws Act) came into force, ferries in the Punjab were governed by Bengal Regulation VI of 1819; but by the Punjab Laws Act that Regulation was inadvertently repealed, and, no other law being substituted for it, there has from that date been no law for the control of ferries in the Punjab. Another result, is that as the law now stands, it would be difficult for the Local Government to prevent an unlicensed person from setting up a rival ferry alongside of a Government ferry, and thus materially reducing the income of the latter ferry and the funds available for its maintenance.To remedy this state of things, and at the same time to provide generally for the regulation of Government ferries, a Bill to regulate ferries in the Punjab was prepared. About the same time the Lieutenant Governor of North Western Provinces and Chief Commissioner of Oudh submitted a draft Bill for the regulation of ferries in the territories under his administration. The Bill so submitted, and the Bill for the Punjab as modified and supplemented in accordance with communications subsequently received from the Punjab, were found to differ so little, that it was thought advisable to amalgamate the two Bills, and accordingly the present Bill, extending to the Punjab, the North Western Provinces and Oudh has been prepared.The Bill is based on the Burma Ferries Act, II of 1873, and the provisions of that Act have been followed as closely as the different circumstances and requirements of the provinces with which this Bill deals would permit.In section 3 it has been thought desirable to declare that the term 'ferry' includes boat-bridges, as they often take the place of ferries in Northern India, and are managed in the same way as ferries properly so called.There appear to be no recognised private ferries in the Punjab, but they exist in the North Western Provinces and Oudh. A clause has, therefore, been introduced in section 4, in accordance with the wishes of the Lieutenant Governor and Chief Commissioner giving the Local Government power to take possession of private ferries and make them public, and in section 5 the manner in which claims for compensation made by persons whose ferries are so taken by the Government are to be dealt with, is laid down. The section follows the provisions of section 6 of Regulation VI of 1819.In cases in which an alteration in the course of a public ferry is rendered necessary by changes in the bed of the river power has been given to the Commissioner (section 4) to make such alteration as is necessary without referring to the Local Government.Section 9

provides that arrears due by the lessee of a public ferry on account of his lease may be recovered as if they were arrears of land-revenue. By Section 13 it is provided that any person using the approach to, or landing place of, a ferry shall pay toll. By section 17 power is given to any person to compound for ferry-tolls. This seems a reasonable provision for people living in the neighbourhood of the ferry, who have constantly to cross it for purposes of business or otherwise. Sections 18 and 19 deal with private ferries; the former empowers the Commissioner, with the previous sanction of the Local Government, to make rules for the maintenance of order and the safety of passengers and property, the latter declares that the tolls chargeable at such ferries shall not exceed the highest rate fixed for similar public ferries. The penalties generally have been increased in accordance with the wishes of the Lieutenant Governor of the North Western Provinces and Chief Commissioner of Oudh. Gazette of India, Part V, page 489. An Act to regulate Ferries in Northern India. Preamble - Whereas it is expedient to regulate ferries on [Uttar Pradesh, Punjab, the Central Provinces, Assam, Delhi and Ajmer] [Substituted for the words 'the United Provinces, East Punjab the Central Provinces, Assam, Delhi and Ajmer Merwara' by the Adaptation of Laws Order, 1950.]; it is hereby enacted as follows :- I - Preliminary

1. Short title.

- This Act may be called the Northern India Ferries Act, 1878. Local extent. - [It extends only to] [Substituted for the old paragraph by the Adaptation of Laws Order, 1948.] [Uttar Pradesh] [Substituted for the words 'United Provinces' by the Adaptation of Laws Order, 1950.] [Punjab] [Substituted for the words 'East Punjab' by the Adaptation of Laws Order, 1950.] [Madhya Pradesh, Assam, Delhi and] [Substituted for the words 'Central Provinces' by the Adaptation of Laws Order, 1950.] [Ajmer.] [Substituted for the words 'Ajmer Merwara' by the Adaptation of Laws Order, 1950.] Commencement. - [It shall come into force in each of the said territories on such date as the] [This Act was brought into force in the Punjab on the 1st April, 1881, vide Notification No. 1168, published in the Punjab Gazette, dated the 24th March, 1881.] [State Government may, by notification in the Official Gazette, fix in this behalf.] [Substituted for the words 'Provincial' by the Adaptation of Laws Order, 1950.]

1A. [Provisions relating to levy and collection of tolls not to apply till notification for their application is issued. [See Punjab Act 10 of 1983.]

- Nothing contained in this Act providing for the levy and collection of tolls on persons, animals, vehicles and other things, crossing any river by a public ferry shall apply to the State of Punjab]: Provided that the State Government may, by notification, apply the provisions referred to above to the State of Punjab from such date as may be specified in the notification.

2. Repeal.

- [Omitted.] [Act brought into force in the Punjab on the 1st April, 1881, vide Notification No. 1168, published in the Punjab Gazette, dated 24.3.1981.]

3. Interpretation clause.

- In this Act the word "ferry" includes also 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.

4. Power to declare, establish, define and discontinue public ferries.

- The [State] [Substituted for the words 'Provincial' by the Adaptation of Laws Order, 1950.] 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 declaration, establishment, definition, change or discontinuance shall be made by notification in the Official Gazette : [Provided that when a river lies between two [States] [Substituted for the original proviso by the Devolution Act, 1920 (38 of 1920), section 2 and First Schedule.] the power conferred by this section shall, in respect of such river be exercised jointly by the State Government of those States by notification in their respective Official Gazettes [-] [The words 'and in any case where the said Local Governments fail to agree as regards the exercise of any such power, they shall exercise such power subject to the Control of the Governor-General-in-Council' were omitted by the Adaptation of Laws Order, 1937.] : Provided also 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 Commissioner of the Division in which such ferry is situate, or by such other officer as the State Government may, from time to time appoint by name or in virtue of his office in this behalf.

5. Claims for compensation.

- 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 [State Government.] [Substituted for the words 'Provincial' by the Adaptation of Laws Order, 1950.]

6. Superintendence of public ferries.

- The immediate superintendence of every public ferry shall, except as provided in [section 7 and section 7-A] [Added by Act XX of 1883, Section 17 infra.] be vested, in the Magistrate of the district in which such ferry is situate, or in such other officer as the State Government may, from time to time appoint by name or in virtue of his office in this behalf; 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. Management may be vested in municipality and proceeds paid into municipal fund.

- The State 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 arrangement of such town;[and thereupon that ferry shall be managed accordingly.] [Substituted by the Adaptation of Laws Order, 1937.]

7A. [Management may be vested in District Council or District or Local Board.] [Section 7-A was added by Act 20 of 1883, Section 78 infra, and was substituted by the Adaptation of Laws Order, 1950.]

- The State Government may direct that 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 State be managed by that Council or Board, and thereupon that ferry shall be managed accordingly.

8. Letting ferry-tolls by auction.

- 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 Commissioner, or by public auction, or otherwise than by public auction, for any term with the previous sanction of the State Government. The lessee shall conform to the rules made under the 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 7-A, 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 to be recorded in writing, refuse to accept the offer of the highest bidder and may accept any other bid, or may withdraw the toll from auction.

9. [Recovery of arrears from lessee.] [Substituted by Act 3 of 1886, Section 1.]

- All arrears due by the lessee of the tolls of a public ferry on account of his lease may be recovered from the lessee or his surety (if any) by the Magistrate of the district in which the ferry is situate as if they were arrears of land revenue.

10. Power to cancel lease.

- The State Government may cancel the lease of the tolls of any public ferry on the expiration of six months' notice in writing to the lessee of its intention to cancel such lease. When any lease is cancelled under this section, the Magistrate of the district in which such ferry is situate shall pay to

the lessee such compensation as that Magistrate may, with the previous sanction of the [States Government award.] [Substituted for the words 'Provincial' by the Adaptation of Laws Order, 1950.]

11. Surrender of lease.

- The lessee of the tolls of a public ferry may surrender his lease on the expiration of one month's notice in writing to the State Government of his intention to surrender such lease, and on payment to the Magistrate of the district in which such ferry is situate of such compensation as such Magistrate, subject to the approval of the Commissioner, may in each case direct.

12. Power to make rules.

- Subject to the control of the [State] [Substituted for the words 'Provincial' by the Adaptation of Laws Order, 1950.] Government, the Commissioner of a division, or such other officer as the [State] [Substituted for the words 'Provincial' by the Adaptation of Laws Order, 1950.] Government may, from time to time, appoint in this behalf, by name or in virtue of his office, may, from time to time, make rules consistent with this Act :-(a)for the control and the management of all public ferries (within such division) and for regulating the traffic at such ferries;(b)[for regulating the time and manner at and in which and the terms on which, the tolls of such ferries may be let by auction, and prescribing the persons by whom auction may be conducted;] [Substituted by Act 3 of 1886, Section 1(2).](c)for compensating persons who have compounded for the tolls payable for the use of any such ferry when such ferry has been discontinued before the expiration of the period compounded for; and(d)generally to carry out the purposes of this Act; and when the tolls of a ferry have been let under section 8, such Commissioner or other officer may, from time to time (subject as aforesaid), make additional rules consistent with this Act;(e)for collecting the rents payable for the tolls of such ferries;(f)in cases in which the communication is to be established by means of a bridge of boats, pontoons or rafts, or a swinging-bridge, flying bridge or temporary bridge, for regulating the time and manner at and in which such bridge shall be constructed and maintained and opened for the passage of vessels and rafts through the same; and(g)in cases in which the traffic is conveyed in boats, for regulating (1) the number and kind of such boats and their dimensions and equipment; (2) the number of the crew to be kept by the lessee for each boat; (3) the maintenance of such boats continually in good condition; (4) the hours during which, and the intervals within which, the lessee shall be bound to ply; and (5) the number of passengers, animals and vehicles and the bulk and weight of other things that may be carried in each kind of boat at one trip.The lessee shall make such returns of traffic as the Commissioner or other officer as aforesaid may, from time to time require.

13. Private ferry not to ply within two miles of public ferry without sanction.

- [Except with the sanction of the Magistrate of the district or such other officer as the [State] [Substituted by Act III of 1886, Section 2(1).] Government may from time to time, appoint in this behalf, by name or in virtue of his office, no person shall establish, maintain or work a ferry to or from any point within a distance of two miles from the limits of a public ferry.]Provided that in the case of any specified public ferry the [State Government may, by notification in the Official Gazette, reduce or increase the said distance of two miles to such extent as it thinks fit :] [Substituted for the

words 'Provincial' by the Adaptation of Laws Order, 1950.] Provided also that nothing hereinbefore contained shall prevent persons plying between two places, one which is without, and one within, the said limits, when the distance between such two places is not less than three miles, or apply to boats [which do not ply for hire, or which the [State] [Added by Act III of 1886, Section 2(2), infra.] Government expressly exempts from the operation of this section.]

14. Persons using approaches, etc., liable to pay toll.

- Whoever uses the approach to, or landing place of, a public ferry is liable to pay the toll payable for crossing such ferry.

15. [Tolls. [So much of section 15 is repealed as provides for the exemption from tolls of any person, animals, vehicles or other things exempted by S. 3 of the Indian Tolls (Army) Act II of 1901.]

- Tolls, according to such rates as are, from time to time, fixed by the State Government, shall be levied on all persons, animals, vehicles and other things crossing any river by a public ferry and not employed or transmitted on the public service] : Provided that the State Government may, from time to time, declare that any persons, animals, vehicles or other things shall be exempted from payment of such tolls. Where the tolls of a ferry have been let under section 8, any such declaration, if made after the date of the [lease] [Substituted for the word 'Auction' by the Act III of 1886, Section 1.], shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be fixed by the Commissioner of the division or such other officer as the [State] [Substituted for the words 'Provincial' by the Adaptation of Laws Order, 1950.] Government may, from time to time, appoint in this behalf by name or in virtue of his office. Declaration [In exercise of the powers conferred by section 15 of the Northern India Ferries Act, 1878 (XVII of 1878), the Punjab Government (Ministry of Local Self Government) are pleased to sanction the exemption of agriculturists cultivating lands on both sides of the rivers Ravi and Beas using District Board ferries in the Amritsar District for the purpose of cultivating their lands and on return to their homes from the payment of ferry tolls.] [Vide Punjab Government Notification No. 30230, dated 14.9.1935]

16. Table of tolls.

- The lessee or other person authorised to collect the tolls of any public ferry shall fix a table of such tolls, legibly written or printed in the vernacular language and, also if the Commissioner of the division so directs, in English in some conspicuous place near the ferry; and shall be bound to produce, on demand a list of the tolls, signed by the Magistrate of the district or such other officer as he appoints in this behalf.

17. Tolls, rents, compensation and fines are to form part of revenue of State.

- All tolls, rents, compensation and fines under this Act (other than tolls received by any lessee) shall form part of the revenues of the State.

18. Compounding for toll.

- The [States] [Substituted for the words 'Provincial' by the Adaptation of Laws Order, 1950.] Government may, if it thinks fit, from time to time, fix rates at which any person may compound for the tolls payable for the use of a public ferry.III - Private Ferries

19. Power to make rules.

- The Commissioner of the division may, with the previous sanction of the [States] [Substituted for the words 'Provincial' by the Adaptation of Laws Order, 1950.] Government, from time to time, make rules for the maintenance of order and for the safety of passengers and property at ferries other than public ferries.

20. Tolls.

- The tolls charged at such ferries shall not exceed the highest rates for the time being fixed under section 15 for similar public ferries.IV - Penalties and Criminal Procedure

21. Penalty for breach of provisions as to table of tolls, list of tolls and return of traffic.

- Every lessee or other person authorised to collect the tolls of a public ferry, who neglects to affix and keep in good order and repair the table of tolls mentioned in section 16;or wilfully removes, alters or defaces such table, or allows it to become illegible,or who fails to produce on demand the list of the tolls mentioned in section 16,and every lessee who neglects to furnish any return required under section 12,shall be punished with fine which may extend to fifty rupees.

22. Penalty for taking unauthorised toll, and for causing delay.

- Every such lessee or other person as aforesaid and any person in possession of a private ferry asking or taking more than the lawful toll, or without due cause delaying any person, animal, vehicle or other thing, shall be punished with fine which may extend to one hundred rupees.

23. Penalty for breach of rules made under sections 12 and 19.

- Every person breaking any rule made under section 12 or section 19 shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to two hundred rupees or with both.

24. Cancelment of lease on default or breach of rules.

- When any lessee of the tolls of a public ferry make default in the payment of the rent payable in respect of such tolls, or has been convicted of an offence under section 23, or, having been convicted

of an offence under section 23, or, having been convicted of an offence under section 21 or section 22, is again convicted of an offence under either of those sections, The Magistrate of the district may, with the sanction of the Commissioner of the division, cancel the lease of the tolls of such ferry, and make other arrangements for its management during the whole or any part of the term for which the tolls were let.

25. Penalties for passengers offending.

- Every person crossing by any public ferry, or using the approach to, or landing place thereof, who refuses to pay the proper toll, and every person -who, with intent to avoid payment of such toll, fraudulently or forcibly crosses by any such ferry without paying the toll, or who obstructs any toll collector or lessee of the tolls of a public ferry or any of his assistants in any way in the execution of their duty under this Act, or who, after being warned by any such toll-collector, lessee or assistant not to do so, goes or takes any animals, vehicles or other things into any ferry- boat, or upon any bridge at such ferry, which is in such a state or so loaded as to endanger human life or property, or who refuses or neglects to leave, or remove any animals, vehicles or goods from, any such ferry-boat or bridge, on being requested by such toll- collector, lessee or assistant to do so; shall be punished with fine which may extend to fifty rupees.

26. Penalty on maintaining private ferry within prohibited limits.

- [Whoever establishes, maintains or works a ferry in contravention of provisions of section 13 shall be punished with fine which may extend to five hundred rupees, and with a further fine which may extend to one hundred rupees for every day during which the ferry is maintained or worked in contravention of those provisions.] [Substituted by Act III of 1886, Section 2.]

27. Fines payable to lessee.

- Where the tolls of any public ferry have been let under the provisions hereinbefore contained, the whole or any portion of the 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.

28. Penalty for rash navigation and stacking of timber.

- 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.

29. Power to arrest without warrant.

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

30. Power to try summarily.

- Any Magistrate or Bench of Magistrates having summary jurisdiction under Chapter XVIII of the [Code of Criminal Procedure] [See now the Code of Criminal Procedure, 1973.] may try any offence against this Act in a manner provided by that Chapter.

31. Magistrates may assess damage done by offender.

- 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 an 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 vessel, raft or timber causing the damage, and of any thing found in or upon such vessel or raft. The Commissioner 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

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

- 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 State Government may in such case direct until such Magistrate can conveniently procure proper substitutes therefor.

33. Similar power in cases of emergency.

- When any boats or their equipment or any materials or appliances suitable for setting up a ferry, are urgently required for facilitating the transport of officers, or troops of [the Government of India] [Substituted for the words 'Her Majesty' by the Adaptation of Laws Order, 1950. Schedule I.] on duty, or of any other person on the business of [Government] [Substituted for the words 'Her Majesty' by the Adaptation of Laws Order, 1950.], or of any animals, vehicles or baggage belonging to such officers, troops or persons or of any property of [Government] [Substituted for the words 'Her Majesty' by the Adaptation of Laws Order, 1950.], the Magistrate of the district may take possession of and use the same paying such compensation for the use thereof as the [Central Government] [Substituted for the words 'Local Government' by the Adaptation of Laws Order, 1937.] (where the transport is in connection with the affairs of the Central Government) and the

[State] [Substituted for the words 'Provincial' by the Adaptation of Laws Order, 1950.] Government in other cases may in each case direct until such transport is completed.

34. Jurisdiction of civil courts barred.

- 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.

35. Delegation of powers.

- The [State] [Substituted for the words 'Provincial' by the Adaptation of Laws Order, 1950.] 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 Commissioner 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.

36. Validation of proceedings since repeal of Regulation VI of 1891 in Punjab.

- Repealed by the Amending Act, 1891 (XII of 1891).-----