

**THE CANAL AND DRAINAGE ACT, 1873**  
**(VIII of 1873)**

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## TEXT

### **<sup>1</sup>THE CANAL AND DRAINAGE ACT, 1873 (VIII of 1873)**

[15<sup>th</sup> February, 1873]

#### **An Act**

*to regulate Irrigation, Navigation and Drainage*<sup>2</sup> [\* \* \*].

**Preamble.**— **WHEREAS**, throughout the territories to which this Act extends,<sup>3</sup> [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<sup>4</sup> [,sub-soil water] 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**

**1. Short title.**— This Act may be called “The<sup>5</sup> [\* \* \*] Canal and Drainage Act, 1873”:

**Local extent.**— It extends to<sup>6</sup> [the Punjab]<sup>7</sup> [,]<sup>8</sup> [\* \* \*]

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<sup>1</sup>For statement of objects and reasons, see Gazette of India, 1872, Pt. V, p. 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. 154, 156, 223, 246 and 279.

This act was published in the Gazette of India, dated 15.2.1873, pages 56-67.

<sup>2</sup>The words “Northern India” omitted by the Adaptation of Central Acts and Ordinances Order, 1949 (G.G.O. 4 of 1949); and published in the Gazette of Pakistan (Extraordinary), dated 28.3.1949, Pages 223-283, see Article 3 and the Schedule, at entry No.48.

<sup>3</sup>Substituted for the words “Government” by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 3 & Schedule I.

<sup>4</sup>Inserted by the Canal and Drainage (West Pakistan Amendment) Ordinance, 1965 (XXIII of 1965); and published in the Gazette of West Pakistan (Extraordinary), dated 8.6.1965, pages 2667-2668, s.2.

<sup>5</sup>The words “Northern India” omitted by the Adaptation of Central Acts and Ordinances Order, 1949 (G.G.O. 4 of 1949); and published in the Gazette of Pakistan (Extraordinary), dated 28.3.1949, Pages 223-283, see Article 3 and the Schedule, at entry No.48.

<sup>6</sup>Substituted for the words “West Punjab” by the Federal Laws (Revision and Declaration) Act, 1951 (XXVI of 1951); and published in the Gazette of Pakistan (Extraordinary) dated 12.5.1951, pages 340-388, s.8, which had been substituted for the words “the territories [which on the 11th February, 1873, were] respectively under the Govt. 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 Adaptation of Central Acts and Ordinances Order, 1949 (G.G.O. 4 of 1949); and published in the Gazette of Pakistan (Extraordinary), dated 28.3.1949, pages 223-283, Schedule The bracketted words substituted for “for the time being” by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 3 & Schedule I.

<sup>7</sup>The semi colon occurring after the words “the Punjab” substituted by a full stop, by the Canal and Drainage (Amendment) Act 2006 (XVII of 2006); and published in the Punjab Gazette (Extraordinary), w.e.f. 6.11.2006, pages 1575-1582, s.2.

<sup>9</sup>[\* \* \* \* \* ]

<sup>10</sup>[2. *Repeal of Acts.*— \* \* \* \* \* ]

**3. Interpretation-clause.**— In this Act— unless there be something repugnant in the subject or context—

(1) **“Canal”** includes—

- (a) all canals, channels<sup>11</sup>[, tube-wells] and reservoirs constructed, maintained or controlled by <sup>12</sup>[the Provincial 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 water-courses as defined in the second clause of this section;
- (d) any part of a river, stream, lake or natural collection of water, or natural drainage-channel, to which the <sup>13</sup>[Provincial Government] has applied the provisions of Part II of this Act <sup>14</sup>[:]

<sup>15</sup>[\* \* \* \* \* ]

(2) **“Water-course”** means any channel which is supplied with water from a canal, but which is not maintained at the cost of <sup>16</sup>[the Provincial Government], and all subsidiary works belonging to any such channel;

(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 <sup>17</sup>[the

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<sup>8</sup>The expression “and applies to all lands, whether permanently settled, temporarily settled, or free from revenue” omitted by the Canal and Drainage (Amendment) Act 2006 (XVII of 2006); and published in the Punjab Gazette (Extraordinary), w.e.f. 6.11.2006, pages 1575-1582, s.2.

<sup>9</sup>Commencement clause repealed by the Repealing Act, 1874 (X of 1874).

<sup>10</sup>Repealed by the Repealing Act, 1873 (XII of 1873), s. 1 and Sch., Pt. II.

<sup>11</sup>Inserted by the Canal and Drainage (West Pakistan Amendment) Ordinance, 1965 (XXIII of 1965); and published in the Gazette of West Pakistan (Extraordinary), dated 8.6.1965, pages 2667-2668, s.3.

<sup>12</sup>Substituted for the words “the Government” by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 3 & Schedule I. ; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 3 & Schedule I.

<sup>13</sup>Substituted for the words “Local Government” by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

<sup>14</sup>Substituted for the semi-colon by the Canal and Drainage (Amendment) Act 2006 (XVII of 2006); and published in the Punjab Gazette (Extraordinary), w.e.f. 6.11.2006, pages 1575-1582, s.3.

<sup>15</sup>Omitted *ibid.*, for the the comma, colon and the words “but does not include a Kareze not constructed at the cost of the Provincial Government or the contribution of the Provincial Government in the construction whereof does not exceed rupees ten thousands, and not maintained or controlled by the Provincial Government:” which was inserted through the Canal and Drainage Extension Act, 1964 (XXIV of 1964); and published in the Gazette of West Pakistan, dated 11.4.1964, pages 1207-E to 1207-F , s.3

<sup>16</sup>Substituted for the words “the Government” by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

<sup>17</sup>Substituted *ibid.*

Provincial Government] under the provisions of Part VII of this Act, but does not include works for the removal of sewage from towns;

- (4) **“vessel”** includes boats, rafts, timber and other floating bodies;
- <sup>18</sup>[(4A) **“Chief Engineer”** means a Chief Engineer declared by the Provincial Government under section 4:]
- <sup>19</sup>[(4B) **“Deputy Collector”** means an officer appointed as such by the Provincial Government:]
- <sup>20</sup>[(5) **“Executive District Officer (Revenue)”** means an Executive District Officer (Revenue) of a district and includes an officer appointed under this Act to exercise all or any of the powers of the Executive District Officer (Revenue):]
- <sup>21</sup>[(6) **“Collector”** means the Head Revenue Officer of a district and includes an officer appointed under the Act to exercise all or any of the powers of a Collector:]
- (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”** means an officer exercising general control over a canal or portion of a canal;
- “Divisional Canal Officer”** means an officer exercising control over a division of a canal;
- “Sub-Divisional Canal Officer”** means an officer exercising control over a sub-division of a canal;
- <sup>22</sup>[(8) **“district”** shall have the same meanings as are assigned to this word in the Punjab Local Government Ordinance, 2001 (XIII of 2001):]
- <sup>23</sup>[(9) **“Canal Outlet”** means a work which passes water from a canal, including a tube-well, to a water course and is constructed, maintained or controlled by Government <sup>24</sup>[:] <sup>25</sup>[\* \* \*]
- (10) **“Internal Khal”** means any channel supplied with water from a water-

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<sup>18</sup>by the Canal and Drainage (Amendment) Act 2006 (XVII of 2006); and published in the Punjab Gazette (Extraordinary), w.e.f. 6.11.2006, pages 1575-1582, s.3.

<sup>19</sup>Inserted *ibid*.

<sup>20</sup>Substituted *ibid*.

<sup>21</sup>Substituted *ibid*.

<sup>22</sup>Substituted *ibid*.

<sup>23</sup>Added by the Canal and Drainage (Punjab Amendment) Act, 1975 (XXXII of 1975); and published in the Punjab Gazette (Extraordinary) dated 3.4.1975, pages 267-282, s.2.

<sup>24</sup>Substituted for the semi-colon by the Canal and Drainage (Amendment) Act 2006 (XVII of 2006); and published in the Punjab Gazette (Extraordinary), w.e.f. 6.11.2006, pages 1575-1582, s.3.

<sup>25</sup>The word “and” omitted *ibid*.

course for watering fields <sup>26</sup>[:]

<sup>27</sup>[(11) **“Organization of Farmers”** means an Organization of Farmers established under this Act and includes any other similar organization established by the Provincial Government or any of its agencies under any law for the time being in force; and]

<sup>28</sup>[(12) **“prescribed”** means prescribed by the rules made under this Act.]

**4. Power to appoint officers.**— The <sup>29</sup>[Provincial 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.

All officers mentioned in section three, clause (7), shall be respectively subject to the orders of such officers as the <sup>30</sup>[Provincial Government] from time to time directs.

<sup>31</sup>**[4-A. Organizations of Farmers.**— (1) The Provincial Government may constitute an Organization of Farmers comprising the local cultivators on a water-course, a group of water-courses or a distributary or a part thereof.

(2) The Provincial Government may entrust any of the functions of Canal Officer under this Act to such an Organization.

(3) The Provincial Government may frame rules for the formation, operation, functions, jurisdiction and all other related matters of the Organizations of Farmers.]

## PART II OF THE APPLICATION OF WATER FOR PUBLIC PURPOSES

**5. Notification to issue when water-supply is to be applied for public purposes.**— Whenever it appears expedient to the <sup>32</sup>[Provincial 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, <sup>33</sup>[or any sub-soil water,] should be applied or used by <sup>34</sup>[the

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<sup>26</sup>Substituted *ibid.*, for the full-stop.

<sup>27</sup>Inserted *ibid.*

<sup>28</sup>Inserted *ibid.*

<sup>29</sup>Substituted for the words “Local Government” by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

<sup>30</sup>*Ibid.*

<sup>31</sup>Added by the Canal and Drainage (Punjab Amendment) Act, 1975 (XXXII of 1975); and published in the Punjab Gazette (Extraordinary) dated 3.4.1975, pages 267-282, s.2, and then substituted by the Canal and Drainage (Amendment) Act 2006 (XVII of 2006); and published in the Punjab Gazette (Extraordinary), w.e.f. 6.11.2006, pages 1575-1582.

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

<sup>33</sup>Inserted by the Canal and Drainage (West Pakistan Amendment) Ordinance, 1965 (XXIII of 1965); and published in the Gazette of West Pakistan (Extraordinary), dated 8.6.1965, pages 2667-2668, s.4.

<sup>34</sup>Substituted for the words “the Government” by the Government of India (Adaptation of Indian Laws) Order, 1937; and

Provincial Government] for the purpose of any existing or projected canal or drainage-work, the <sup>35</sup>[Provincial 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.

**6. Powers of Canal Officer.**— At any time after the day so named, any Canal Officer, acting under the orders of the <sup>36</sup>[Provincial 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 such application or use of the said water.

**7. Notice as to claims for compensation.**— 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 <sup>37</sup>[the Provincial Government] intends to apply or use the said water as aforesaid, and that claims for compensation in respect of the matters mentioned in section eight may be made before him.

<sup>38</sup>**[8. No compensation to be awarded for any damage.**— (1) No compensation shall be awarded for any damage caused by—

- (a) stoppage or diminution of percolation of water or floods;
- (b) deterioration of climate or soil;
- (c) stoppage of navigation, or of means of drifting timber or watering cattle;
- (d) displacement of labour;
- (e) stoppage or diminution of supply of water through any natural channel to any defined artificial channel, whether above or underground, in use whether constantly or at intervals 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, whether constantly or at intervals, before the date of the said notification;
- (h) interference with any right to a watercourse or the use of any water to which any person is entitled under the Limitation Act, 1908, Part IV.

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published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 3 & Schedule I.

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

<sup>36</sup>Substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

<sup>37</sup>Substituted *ibid.*, for the word "Government", see Article 3 & Schedule I.

<sup>38</sup>Substituted section 8 by the Canal and Drainage (Amendment) Act, 1952 (XIV of 1952); and published in the Punjab Gazette (Extraordinary), dated 4.2.1952, pages 107-108, s.2.

(2) No right in respect of any of the matters referred to in clauses (a), (b) and (c) of subsection (1) shall be acquired as against the Government under the Limitation Act, 1908, Part IV; and no right to any such supply of water as is referred to in clauses (e), (f) and (g) of subsection (1), in respect of work or a channel, as the case may be, not in use at the date of the notification shall be acquired, as against the Government, except by grant or under the Limitation Act, 1908, Part IV.]

<sup>39</sup>[9. \* \* \* \* \* ]

<sup>40</sup>[10. \* \* \* \* \* ]

**11. Abatement of rent on interruption of water-supply.**— Every tenant holding under an unexpired lease, or having a right of occupancy, who is in occupation of any land at the time when any stoppage or diminution of water-supply, <sup>41</sup>[\* \* \*], 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.

**12. Enhancement of rent on restoration of water-supply.**— 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.

<sup>42</sup>[13. \* \* \* \* \* ]

### PART III OF THE CONSTRUCTION AND MAINTENANCE OF WORKS

**14. Power to enter and survey, etc.**— 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;

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;

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<sup>39</sup>Omitted *ibid.*, s.3.

<sup>40</sup>Omitted *ibid.*, s.3.

<sup>41</sup>The words, "in respect of which compensation is allowed under section 8", omitted *ibid.*, s.3.

<sup>42</sup>Substituted section 8, by the Canal and Drainage (Amendment) Act, 1952 (XIV of 1952); and published in the Punjab Gazette (Extraordinary), dated 4.2.1952, pages 107-108, s.3.

**Power to clear land.**— 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 inspect and regulate water-supply.**— and may also enter upon any land, building or water-course on account of which any water-rate is chargeable, for the purpose of inspecting or regulating the use of the water supplied, or 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:

**Notice of intended entry into houses.**— 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.

**Compensation for damage caused by entry.**— 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.

<sup>43</sup>**[14-A. Irrigation Schemes.**— (1) Whenever it appears necessary to the Provincial Government to start a project, for which the survey has been conducted under section 14, to provide water channels for the irrigation purpose, it may cause to be drawn the scheme for the layout of water-courses.

(2) The scheme shall be published and if no objection is received within one month of such publication, it shall become final and be binding on all the persons accepting water under the scheme.

(3) The Divisional Canal Officer shall entertain and decide the objections, after such enquiry as he may deem necessary, and his decision shall be final and binding on all the persons receiving water under the scheme.

(4) A person accepting the supply of water under the scheme shall be bound to allow the use of his land for the construction of the water-courses according to the final layout of the scheme.]

<sup>44</sup>**[14-B. Development schemes.**— (1) The Provincial Government may plan and implement a scheme for development, rehabilitation or improvement of a canal.

(2) The Provincial Government may levy special charges on the irrigators and other water users of the canal to meet the whole or part of the expense incurred on a scheme under subsection (1).]

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<sup>43</sup>Inserted by the Canal and Drainage (Amendment) Act 2006 (XVII of 2006); and published in the Punjab Gazette (Extraordinary), w.e.f. 6.11.2006, pages 1575-1582, s.5.

<sup>44</sup>Inserted by the Canal and Drainage (Amendment) Act 2016 (XII of 2016), published in the Punjab Gazette (Extraordinary), dated: 23 February 2016, pp. 3971-3973 s.2.

**15. Power to enter for repairs and to prevent accidents.**— 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 <sup>45</sup>[, including digging and removing earth,] which may be necessary for the purpose of repairing or preventing such accident.

**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 <sup>46</sup>[Provincial Government] had directed the occupation of the lands under section Forty-three of the <sup>47</sup>Land Acquisition Act, 1870.

**16. <sup>48</sup>[Construction and improvement of a water-course].**— Any persons desiring to use the water of any canal, may apply in writing to the Divisional or Sub-Divisional Canal Officer of the division or sub-division of the canal from which the water-course is to be supplied, requesting such officer to construct or improve a water-course at the cost of the applicants.

**Contents of application.**— The application shall state the works to be undertaken, their appropriate estimated cost, or the amount which the applicants are willing to pay for the same, or whether they engage to pay the actual cost as settled by the Divisional Canal Officer, and how the payment is to be made.

**Liability of applicants for cost of works.**— When the assent of the <sup>49</sup>[Canal Officer authorized in this behalf by Provincial Government] is given to such application, all the applicants shall, after the application has been duly attested before the Collector, be jointly and severally liable for the cost of such works to the extent mentioned therein.

**Recovery of amount due.**— Any amount becoming due under the terms of such application, and not paid to the Divisional Canal Officer, or the person authorized by him to receive the same, on or before the date on which it becomes due, shall, on the demand of such officer, be recoverable by the Collector as if it were an arrear of land revenue.

**17. Government to provide means of crossing canals.**— There shall be

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<sup>45</sup>Inserted by the Canal and Drainage (Amendment) Act 2006 (XVII of 2006); and published in the Punjab Gazette (Extraordinary), w.e.f. 6.11.2006, pages 1575-1582, s.6.

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

<sup>47</sup>X of 1870, subsequently replaced by the Land Acquisition Act, 1894 (I of 1894).

<sup>48</sup>Substituted for the words "Application by persons desiring to use the canal-water" by the Canal and Drainage (Amendment) Act 2006 (XVII of 2006); and published in the Punjab Gazette (Extraordinary), w.e.f. 6.11.2006, pages 1575-1582, s.7.

<sup>49</sup>Substituted for the words "Superintending Canal Officer", by the West Pakistan (Adaptation of Laws) Ordinance, 1962 (XXV of 1962); and published in the Gazette of West Pakistan (Extraordinary), dated 2.6.1962, pages 2195-2200, Section 3(2) and Schedule II.

provided, at the cost of <sup>50</sup>[the Provincial Government], suitable means of crossing canals constructed or maintained at the cost of <sup>51</sup>[the Provincial Government], at such places as the <sup>52</sup>[Provincial Government] thinks necessary for the reasonable convenience of the inhabitants of the adjacent lands.

<sup>53</sup>[Five or more inhabitants of such lands may make an application to the Divisional Canal Officer to the effect that suitable crossing may be provided on any canal.

The Divisional Canal Officer shall forthwith forward the application to the Collector who shall cause an enquiry to be made into the circumstances of the case, and if he thinks that the statement is established, he shall record his opinion thereon for the consideration of the Provincial Government, and the Provincial Government shall cause such measure in reference thereto to be taken as it deems fit.]

**18. Persons using water-course to construct works for passing water across roads, etc.**— The Divisional Canal Officer may issue an order to the person using any water-course to construct suitable bridges, culverts or other works for the passage of the water of such water-course across any public road, canal or drainage-channel in use before the said water- course was made, or to repair any such works.

**If they fail, Canal Officer may construct.**— 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;

**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. Adjustment of claims between persons jointly using water-course.**— If any person, jointly responsible with others for the construction or maintenance of a water-course, or jointly making use of a water-course 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,

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<sup>50</sup>Substituted for the words “the Government” by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 3 & Schedule I.

<sup>51</sup>Substituted *ibid*.

<sup>52</sup>Substituted for the words “the Government” by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

<sup>53</sup>Substituted by the Canal and Drainage (Amendment) Act 2006 (XVII of 2006); and published in the Punjab Gazette (Extraordinary), w.e.f. 6.11.2006, pages 1575-1582, s.8.

on the expiration of that period, investigate the case accordingly, and make such order thereon as to him seems fit.

Such order shall be appealable to the <sup>54</sup>[Executive District Officer (Revenue)], whose order thereon shall be final.

**Recovery of amount found due.**— 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.

<sup>55</sup>**[20. Supply of water through intervening water-courses or change of source of water supply.**— (1) Whenever an application is made to a Divisional Canal Officer for the supply of water from a canal through an existing or a new water-course or change of source for water supply of any land, the Divisional Canal Officer, if considers it appropriate, shall—

- (a) give public notice to all persons interested and personal notice to the land- owners through whose land a link water-course is to pass, 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, or the source of supply be changed;
- (b) after making a public enquiry, the Divisional Canal Officer shall determine, whether and on what conditions the said supply shall be conveyed through such water-course or that the source of water supply shall be changed or the link water-course shall be aligned and constructed; and
- (c) subject to policy instructions of the Provincial Government, pass such order as he deems fit.

(2) The Divisional Canal Officer shall, within fifteen days of passing the order, send the record of the case to the Superintending Canal Officer for further proceedings.

(3) A person aggrieved by the order passed under sub-section (1) may file objections with the Superintending Canal Officer within thirty days of the passing of such order.

(4) The Superintending Canal Officer, at his own or on the objections, shall pass such order as he deems fit within ninety days from the receipt of the record or receiving of the objections.

(5) In case no objections are filed and the Superintending Canal Officer fails to pass an order within ninety days, the order of the Divisional Canal Officer shall

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<sup>54</sup>Substituted for the word "Commissioner" by the Canal and Drainage (Amendment) Act 2006 (XVII of 2006); and published in the Punjab Gazette (Extraordinary), w.e.f. 6.11.2006, pages 1575-1582, s.9.

<sup>55</sup>Substituted the original section 20 by the Canal and Drainage (Punjab Amendment) Act, 1975 (XXXII of 1975); and published in the Punjab Gazette (Extraordinary) dated 3.4.1975, pages 267-282, s.4, and then by the Canal and Drainage (Amendment) Act 2006 (XVII of 2006); and published in the Punjab Gazette (Extraordinary), w.e.f. 6.11.2006, pages 1575-1582, s.10.

be deemed to have been confirmed and the record shall be sent back to the Divisional Canal Officer.

(6) The order passed or confirmed under this section shall be final and binding on the applicant, the persons responsible for the maintenance of the said water-course, all the persons affected by the change of source of water supply and the land-owners through whose land the link water-course shall pass.

(7) The applicant shall not be entitled to use the said water-course until he has paid the expenses of alteration of such water-course necessary in order to his being supplied through it, and also such share of the first cost of such water-course as the Divisional or Superintending Canal Officer may determine.

(8) The applicant shall not be entitled to use the link-water-course, until—

(a) he has paid to the land-owner the compensation for the land occupied by such link water-course in whatever shape if it is determined through mutual agreement; or

(b) possession of land for the said link water-course has been acquired under the provisions of this Act.

(9) The applicant shall also be liable for his share of cost of maintenance of the water-course as long as he uses it.]

<sup>56</sup>**[20-A. Special powers of Divisional Canal Officer to initiate cases under section 20.**— Whenever Government considers it expedient for a specific purpose to empower a Divisional Canal Officer to undertake proceedings under section 20 on his own initiative, it may confer such a power by a general or special order issued in that behalf.

**20-B. Cutting of supply for any land not being irrigated at site.**— Whenever, on an application or otherwise, the Divisional Canal Officer considers it expedient to terminate the water-supply of any land which cannot be used for agriculture or has become unirrigable, he shall give notice of not less than fourteen days to the land owners and the persons responsible for the maintenance of the water-course through which such supply is conveyed, to show cause why such supply should not be cut off, and after making enquiry, the said Canal Officer may pass orders to stop the complete or partial supply of water.

(2) After the expiry of thirty days of the announcement of the decision by the Divisional Canal Officer, if no objection is received and after giving due opportunity of hearing, if any objection is received, the Superintending Canal Officer may confirm or modify it. The decision of the Superintending Canal Officer shall be final and binding on the parties concerned].

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<sup>56</sup>Sections 20-A and 20-B added by the Canal and Drainage (Punjab Amendment) Act, 1975 (XXXII of 1975); and published in the Punjab Gazette (Extraordinary) dated 3.4.1975, pages 267-282, s.5.

<sup>57</sup>**[20-C. Revision.–** (1) The Government shall constitute a Board consisting of two or more Superintending Canal Officers to hear and decide revision under this section.

(2) The Board may, on an application by an aggrieved person or on his own, revise any decision of a Canal Officer under section 20, 20-A or 20-B if:

- (a) evidence or material of illegality, negligence or fraud is available on record; or
- (b) any error in controlling factors effecting supply of water is noticed.

(3) If there is sufficient evidence or material available on record that the decision of the Canal Officer or the report, on the basis of which the decision is made, is based on bad intention or motive or gross negligence, the Board may refer the matter to the competent authority for disciplinary or other action against the responsible officer.]

<sup>58</sup>**[21. Application for acquisition of land and construction works thereafter.–** Whenever, it is considered necessary to acquire land for construction of a link water-course sanctioned under section 20, or section 68 or deposit of soil from a water-course clearances permitted under section 68 and transfer of an existing water course sanctioned under section 23, the interested person may apply in writing to the Divisional Canal Officer, stating–

- (i) that he has endeavoured unsuccessfully to acquire from the owner, the land required for the construction of the link water-course, or for the deposit of soil from the water-course, or for the transfer of the existing water-course;
- (ii) that he desires the said Canal Officer, in his behalf and at his cost, to do all things necessary for acquiring such land; and
- (iii) that he is able to defray all costs involved in acquiring such land and constructing such water-course with connected works].

<sup>59</sup>**[22. Procedure of Canal Officer thereupon.–** If the Divisional Canal Officer is satisfied 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 the preliminary proceedings, and the amount of any compensation which he considers likely to become due under this Act; and upon such deposit being made, he shall mark out the land which will be necessary to occupy for the said purpose, and shall forthwith publish a notice in every village that so much of such land as belongs to such village has been so marked out, and shall send a copy of such notice to the Collector of every District in which any part of such land is situated].

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<sup>57</sup>Inserted by the Canal and Drainage (Amendment) Act 2016 (XII of 2016), published in the Punjab Gazette (Extraordinary), dated: 23 February 2016, pp. 3971-3973 s.3.

<sup>58</sup>Substituted *ibid.*, s.6.

<sup>59</sup>Substituted *ibid.*, s.7.

<sup>60</sup>**[23. Application for transfer of existing water course.**— Whenever application is made to a Divisional Canal Officer for transfer of an existing water-course from its present owner to the applicant, and it appears to him expedient that such transfer should be made in the interest of irrigation, he shall give notice to the person owning such water-course to cause, on a day not less than fourteen days from the date of such notice, why the said water-course should not be so transferred, and after making enquiry on such day, the Divisional Canal Officer shall determine whether and on what condition the said water-course shall be transferred.

After the expiry of thirty days of the announcement of the decision of the Divisional Canal Officer, if no objection is received and after giving due opportunity of hearing, if any objection is received, the Superintending Canal Officer may confirm or modify that decision. The decision of the Superintending Canal Officer shall be final and binding on the parties concerned.

The applicant shall not be entitled to use the said water-course, until—

- (a) he has paid to the owner, the compensation thereof in whatever shape it is determined through mutual agreement; or
- (b) possession of the water-course has been acquired under the provisions of this Act].

<sup>61</sup>**[24. Liability to acquisition.**— Notwithstanding anything to the contrary contained in the Land Acquisition Act, 1894, or any other law for the time being in force, all land within the province shall be liable to acquisition at any time under this Act for constructing a water-course or an internal khal].

<sup>62</sup>**[25. When applicant may be placed in occupation.**— (1) Within fourteen days of the publication of the notice under section 22, any person interested in the land to which the notice refers, may apply to the Superintending Canal Officer by petition, stating his objection to the acquisition of land for which the application has been made.

The Superintending Canal Officer may either reject the petition or may make alteration in the alignment of the proposed water-course as he thinks fit after hearing the Divisional Canal Officer or his representative and the applicant or interested persons by giving them previous notice.

Notwithstanding anything to the finality of orders made under section 20, section 23 and section 68, the alteration made under this section by the Superintending Canal- officer shall be construed as modification made in the orders already made under the above said sections to the extent of orders passed under this section.

The Superintending Canal Officer shall record in writing all orders passed by

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<sup>60</sup>Substituted *ibid.*, s.8.

<sup>61</sup>Substituted *ibid.*, s.9.

<sup>62</sup>Substituted *ibid.*, s.10.

him under this section and grounds thereof. The orders of the Superintending Canal Officer shall be final and binding on all the parties.

The Superintending Canal Officer shall inform the Collector of the District, Divisional Canal Officer and the applicant of the order passed by him.

(2) After the expiry of fourteen days of the publication of the notice under section 22, if no appeal is preferred to the Superintending Canal Officer and on the announcement of the decision of the Superintending Canal Officer when appeal is preferred to him as aforesaid the Collector shall proceed within fourteen days to acquire such land or transfer such water-course and determine the necessary compensation; provided that the Collector shall take possession under this section after giving to the occupier thereof notice of fourteen days of his intention to do so].

<sup>63</sup>**[26. Appeal against awards and review.–** (1) The person entitled to compensation under the awards may accept the award and intimate acceptance in writing to the Collector within fifteen days from the date of the announcement of award.

(2) Any person aggrieved by the award of the Collector may within one month of such award appeal to the <sup>64</sup>[Executive District Officer (Revenue)]. Where the affected party had no intimation of the award, the appeal may be filed within six weeks of the award. The <sup>65</sup>[Executive District Officer (Revenue)] may after giving the person affected an opportunity of being heard make such order as he may deem fit.

(3) The order of the <sup>66</sup>[Executive District Officer (Revenue)] made on appeal shall be final and shall not be called into question in any Court.

(4) The Collector or the <sup>67</sup>[Executive District Officer (Revenue)] either of his own motion or on application made to him in this behalf by any affected person may at any time review an order made by himself or his predecessor in so far as it corrects an arithmetical, clerical or patent error or mistake only].

<sup>68</sup>**[27. Collector, <sup>69</sup>[Executive District Officer (Revenue)] and Canal Officer to have powers of Civil Courts, etc.–** The Collector, <sup>70</sup>[Executive District Officer (Revenue)] and a Canal Officer making any enquiry or conducting any proceedings or

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<sup>63</sup>Substituted *ibid.*, s.11.

<sup>64</sup>Substituted for the word "Commissioner" by the Canal and Drainage (Amendment) Act 2006 (XVII of 2006); and published in the Punjab Gazette (Extraordinary), w.e.f. 6.11.2006, pages 1575-1582, s.11.

<sup>65</sup>*Ibid.*

<sup>66</sup>*Ibid.*

<sup>67</sup>*Ibid.*

<sup>68</sup>Substituted by the Canal and Drainage (Punjab Amendment) Act, 1975 (XXXII of 1975); and published in the Punjab Gazette (Extraordinary) dated 3.4.1975, pages 267-282, s.12.

<sup>69</sup>Substituted for the word "Commissioner" by the Canal and Drainage (Amendment) Act 2006 (XVII of 2006); and published in the Punjab Gazette (Extraordinary), w.e.f. 6.11.2006, pages 1575-1582, s.12.

<sup>70</sup>*Ibid.*

exercising the powers of appeal or review under sections 25 and 26 of this Act shall have the same powers in respect of the following matters as are vested in a Civil Court, when trying a suit, under the Code of Civil Procedure, 1908 (Act V of 1908), namely—

- (a) summoning and enforcing attendance of any person, examining him on oath or affirmation;
- (b) requiring the discovery and production of any document;
- (c) requisitioning any record from any court or office;
- (d) issuing commissions for examination of witnesses, inspection of property or making any local investigation;
- (e) appointing guardians *ad litem* or next friends;
- (f) adding or substituting representatives of deceased parties to proceedings;
- (g) adding or dropping parties from pending proceedings;
- (h) dismissal in default of appearance and restoration of cases dismissed for default;
- (i) consolidating and splitting up cases; and
- (j) any other matter connected with the holding of any inquiry or hearing of an appeal].

<sup>71</sup>**[28. Expenses to be paid by applicant before receiving occupation.**— On completion of proceedings under section 25 and delivery of possession of land, the Divisional Canal Officer may allow the applicant to construct the water-course but no such applicant shall be permitted to make use of such land or water-course for the requisite purpose, until he has paid such amount as the Collector determines to be due as compensation for the land or water-course so occupied or transferred, and for any damage caused by the marking out or occupation of such land, together with all expenses incidental to such occupation or transfer.

If any part of 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].

<sup>72</sup>**[29. Conditions binding on applicant placed in occupation.**— When any such applicant is placed in occupation of land or of a watercourse, or an internal khal as aforesaid and permitted to use the same for the requisite purpose, the following rules and conditions shall be binding on him and his representative-in-interest.

*First*— All works necessary for the passage across such watercourse or

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<sup>71</sup>Substituted by the Canal and Drainage (Punjab Amendment) Act, 1975 (XXXII of 1975); and published in the Punjab Gazette (Extraordinary) dated 3.4.1975, pages 267-282, s.13.

<sup>72</sup>Substituted *ibid.*, S.14.

watercourses, or land acquired for the deposit of soil, existing previous to its construction and of the drainage intercepted by it, and for affording proper communications across it, for 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 acquired for the purposes enumerated in section 21, shall be used only for those purposes.

*Third*– The proposed water-course shall be completed to the satisfaction of the Divisional Canal Officer within one year after the applicant is placed in occupation of the land.

In cases in which land is occupied or a water-course is transferred on the terms of a rent-charge.

*Fourth*– The applicant or his representative-in-interest shall, so long as he occupies such land or 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.

*Fifth*– If the right to occupy the land ceases owing to a breach of any of the rules, the liability to pay the said rent shall continue until the applicant or his representative-in-interest has restored the land to its original condition, or until he has paid by way of compensation for any injury done to the said land, such amount and to such persons as the Collector determines.

*Sixth*– The Collector may, on the application of the person entitled to receive such rent or compensation, determine the amount of rent due or assess the amount of such compensation; and, if any such rent or compensation be not paid by the applicant or his representative-in-interest, the Collector may recover the amount, with interest thereon at the rate of ten per cent 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 water-course constructed or transferred under this Act is disused for three years continuously, the right of the applicant, or of his representative-in-interest, to occupy land or water-course shall cease absolutely].

<sup>73</sup>[30. \* \* \* \* \* ]

#### PART IV OF THE SUPPLY OF WATER

**31. In absence of written contract, water-supply to be subject to rules.**– 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

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<sup>73</sup>Omitted *ibid.*, s.15.

conditions prescribed by the rules to be made by the <sup>74</sup>[Provincial Government] in respect thereof.

**32. Conditions as to.**— Such contracts and rules must be consistent with the following conditions—

- (a) **power to stop water-supply.**— The Divisional Canal Officer may not stop the supply of water to any water-course, 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 authority and with the previous sanction of the <sup>75</sup>[Provincial Government];
  - (2) whenever and so long as any water-course 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) **claims to compensation in case of failure or stoppage of supply.**— No claim shall be made against <sup>76</sup>[the Provincial 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 <sup>77</sup>[the Provincial 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 authorized by the <sup>78</sup>[Provincial Government]:
- (c) **claims on account of interruption from other causes.**— 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) **duration of supply.**— When the water of a canal is supplied for the irrigation of a single crop, the permission to use such water shall be

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<sup>74</sup>Substituted for the words “Local Government” by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

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

<sup>76</sup>Substituted *ibid.*, for the word “the Government”.

<sup>77</sup>*Ibid.*

<sup>78</sup>Substituted *ibid.*, Article 4 and Table of General Adaptations, for the words “Local Government”.

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:

- (e) **sale or subletting of right to use canal water.**— 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:

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 water-course for the irrigation of the land held by such tenant;

**Transfer, with land, of contracts for water.**— But all contracts made between <sup>79</sup>[the Provincial 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:

- (f) **no right acquired by user.**— No right to the use of the water of a canal shall be, or be deemed to have been acquired under the <sup>80</sup>Indian Limitation Act, 1877, Part IV, nor shall <sup>81</sup>[the Provincial Government] be bound to supply any person with water except in accordance with the terms of a contract in writing.

<sup>82</sup>**[32-A. Non-payment of charges.**— (1) If a person fails to pay charges under section 31, 33, 34, 36 or 45 within the prescribed period, the Divisional Canal Officer may, after prior notice to the person, exclude the person from warabandi or cancel the agreement of filling of tanks and ponds with that person.

(2) Any person aggrieved of the order of the Divisional Canal Officer under subsection (1) may, within thirty days from the date of the order, file an appeal before the Superintending Canal Officer who shall decide the appeal within thirty days from the date of filing the appeal.]

## PART V OF WATER-RATES

<sup>83</sup>**[33. Liability for unauthorized use of water from canal or water-course.**— (1)

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<sup>79</sup>Substituted for the words “the Government” by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 3 & Schedule I.

<sup>80</sup>XV of 1877, subsequently replaced by the Limitation Act, 1908 (IX of 1908).

<sup>81</sup>Substituted for the words “the Government” by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

<sup>82</sup>Inserted by the Canal and Drainage (Amendment) Act 2016 (XII of 2016), published in the Punjab Gazette (Extraordinary), dated: 23 February 2016, pp. 3971-3973 s.4.

<sup>83</sup>Substituted first by the Canal and Drainage (Punjab Amendment) Act, 1975 (XXXII of 1975); and published in the Punjab Gazette (Extraordinary) dated 3.4.1975, pages 267-282, s.16, and then by the Canal and Drainage (Amendment) Act 2006 (XVII

When the water of a canal is used in an unauthorized manner, the Divisional Canal Officer shall, after holding an enquiry or causing it to be held including identification of the person committing the offence and considering the evidence of the Organization of Farmers, levy the prescribed charges in the prescribed manner from the person by whose act such use has occurred and if such person cannot be identified, from the person on whose land the water has flowed and such land has derived benefit from it.

(2) Where the water used in an unauthorized manner has been taken from a water- course, the Deputy Collector, after holding an inquiry, may levy the charges–

- (a) from the person by whose act or neglect such use has taken place; or
- (b) if such person cannot be identified, from the person on whose land the water has flowed and such land has derived benefit from it; and
- (c) if such person cannot be identified or the land, on which water has flowed, has derived no benefit from it, from all persons chargeable in respect of the water supplied through such water-course.]

**34. Liability when water runs to waste.**– If water supplied through a water-course be suffered to run to waste, and if, after enquiry by <sup>84</sup>[the Deputy Collector], the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such water-course shall be jointly liable for the charges made in respect of the water so wasted.

<sup>85</sup>**[35. Appeals and revisions.**– (1) Any person aggrieved by an order passed by the Divisional Canal Officer in respect of a question under section 33 may, within thirty days of the passing of such order, appeal to the Superintending Canal Officer who after giving such person an opportunity of being heard, may confirm, modify or set aside the order of the Divisional Canal Officer.

(2) Any person aggrieved by an order passed by the Deputy Collector under section 33 or under section 34 may, within thirty days of the passing of such order, appeal to the Divisional Canal Officer, who, after giving such person an opportunity of being heard, may confirm, modify or set aside the order of the Deputy Collector.

(3) Subject to the deposit of charges and penalties to the satisfaction of the revisional authority, a revision shall lie before the Chief Engineer against the order passed by the Superintending Canal Officer under this section within ninety days of the passing of the order.

(4) The order passed by the revisional authority shall be final and the

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of 2006); and published in the Punjab Gazette (Extraordinary), w.e.f. 6.11.2006, pages 1575-1582, s.13.

<sup>84</sup>Substituted for the words “the Divisional Canal Officer” by the Canal and Drainage (Amendment) Act 2006 (XVII of 2006); and published in the Punjab Gazette (Extraordinary), w.e.f. 6.11.2006, pages 1575-1582, s.14.

<sup>85</sup>Substituted first by the Canal and Drainage (Punjab Amendment) Act, 1975 (XXXII of 1975); and published in the Punjab Gazette (Extraordinary) dated 3.4.1975, pages 267-282, s.17, and then by the Canal and Drainage (Amendment) Act 2006 (XVII of 2006); and published in the Punjab Gazette (Extraordinary), w.e.f. 6.11.2006, pages 1575-1582, s.15.

amount of the charges and penalties deposited with the revisional authority shall be liable to be adjusted or refunded accordingly.

(5) The Divisional Canal Officer, Superintending Canal Officer or the Chief Engineer, as the case may be, exercising powers under this section shall not suspend or stay the process of recovery of the charges levied under section 33 or section 34.

(6) All charges for the unauthorized use or waste of water may be recovered in addition to any penalties incurred on account of such unauthorized use or waste.]

**36. Charge on occupier for water, how determined.**— The rates to be charged for canal-water supplied for purposes of irrigation to the occupiers of land shall be determined by the rules<sup>86</sup> to be made by the<sup>87</sup> [Provincial Government], and such occupier as accept the water shall pay for it accordingly.

**Occupier's rate.**— A rate so charged shall be called the “occupier's rate”.

<sup>88</sup>[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, 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. Owner's rate.**— In addition to the occupier's rate, a rate to be called the “owner's rate” may be imposed, according to rules<sup>89</sup> to be made by the<sup>90</sup> [Provincial Government], on the owners of canal-irrigated lands, in respect of the benefit which they derive from such irrigation.

**38. Amount of owner's rate.**— 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.

**39. Owner's rate not chargeable in respect of land temporarily assessed to land-revenue at irrigation-rates.**— No owner's rate shall be chargeable either on the owner or occupier of land temporarily assessed to pay land-revenue at irrigation-

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<sup>86</sup>For instance of such notifications, see Punjab Gazette, 1993, Pt. I. pp. 223 and 224.

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

<sup>88</sup>Inserted by the Northern India Canal and Drainage (Amendment) Act 1899 (XVI of 1899).

<sup>89</sup>For instance of such notifications, see Punjab Gazette, 1993, Pt. I. pp. 223 and 224.

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

rates, during the currency of such assessment.

40 to 43 <sup>91</sup>*[When occupier to pay both rates: apportionment of owner's: when owner to pay owner's rate: effect of introduction of canal-irrigation on landlord's right to enhance].*

**44. Water-rate by whom payable when charged on land held by several owners.**— 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.

### ***Recovery of Charges***

<sup>92</sup>**[45. Certified dues recoverable as arrears of land revenue.**— Any sum lawfully due under this Part and certified by Divisional Canal Officer to be so due shall be recovered as arrears of land revenue by—

- (a) the Collector, in case of water used for irrigation purposes; and
- (b) the Deputy Collector in case of water used for non-irrigation purposes.]

**46. Power to contract for collection of canal-dues.**— The Divisional Canal Officer or the Collector may enter into an agreement with any person for the collection and payment to the <sup>93</sup>[Provincial 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 forty-five; 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.

<sup>94</sup>**[46-A. Agreement with Organization of Farmers.**— The Divisional Canal Officer or the Collector may enter into agreement with an Organization of Farmers for the collection and payment to the Provincial Government of any sum payable under this

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<sup>91</sup>Repealed by the Punjab Tenancy Act 1887 (XVI of 1887), s. 3 and Schedule.

<sup>92</sup>Substituted by the Canal and Drainage (Amendment) Act 2006 (XVII of 2006); and published in the Punjab Gazette (Extraordinary), w.e.f. 6.11.2006, pages 1575-1582, s.16.

<sup>93</sup>Substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

<sup>94</sup>Inserted by the Canal and Drainage (Amendment) Act 2006 (XVII of 2006); and published in the Punjab Gazette (Extraordinary), w.e.f. 6.11.2006, pages 1575-1582, s.17.

Act, and thereafter any such Organization shall be deemed to be a person entering into agreement with the Divisional Canal Officer or the Collector.]

**47. Lambardars may be required to collect canal-dues.**— 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, ryots, <sup>95</sup>[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 <sup>96</sup>[Provincial Government] shall provide—

- (a) for remunerating persons collecting sums under this section; or
- (b) for indemnifying them against expenses properly incurred by them in such collection; or
- (c) for both such purposes.

**48. Fines excluded from sections 45, 46, 47.**— Nothing in sections forty-five, forty-six, or forty-seven applies to fines.

## PART VI OF CANAL-NAVIGATION

**49. Detainer of vessels violating rules.**— Any vessel entering or navigating any canal contrary to the rules made in that behalf by the <sup>97</sup>[Provincial Government], or so 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 authorized in this behalf.

**Liability of owners of vessels causing damage.**— The owner of any vessel causing damage to a canal, or removed or detained under this section, shall be liable to pay to <sup>98</sup>[the Provincial 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.

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<sup>95</sup>Substituted for the words "or tenants" by the Northern India Canal and Drainage (Amendment) Act, 1899 (XVI of 1899).

<sup>96</sup>Substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

<sup>97</sup>Substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

<sup>98</sup>Substituted for the words "the Government" by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 3 & Schedule I.

**50. Recovery of fines for offences in navigating canals.**— 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 Procedure, or, if the Magistrate imposing the fine so directs, as though it were a charge due in respect of such vessel.

**51. Power to seize and detain vessel on failure to pay charges.**— If any charge due under the provisions of this Part in respect of any vessels not paid on demand to the person authorized 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.

**52. Power to seize cargo or goods, if charges due thereon are not paid.**— 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 authorized 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.

**53. Procedure for recovery of such charges after seizure.**— Within a reasonable time after any seizure under section fifty-one or section fifty-two 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.

**54. Procedure in respect of vessels abandoned and goods unclaimed.**— If any vessel 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 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.

**Disposal of proceeds of sale.**— 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 tools, 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.

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 there to be decided by a Court of competent jurisdiction.

## **PART VII OF DRAINAGE**

**55. Power to prohibit obstructions or order their removal.**— Whenever it appears to the <sup>99</sup>[Provincial 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 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. 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 three.

**56. Power to remove obstructions after prohibition.**— The Divisional Canal Officer, or other person authorized by the <sup>100</sup>[Provincial 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.

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.

**57. Preparation of schemes for works of improvement.**— Whenever it appears to the <sup>101</sup>[Provincial Government] that any drainage-works are necessary for the improvement of any lands, or for the proper cultivation or irrigation thereof, or that

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<sup>99</sup>Substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

<sup>100</sup>Ibid.

<sup>101</sup>Ibid.

protection from floods or other accumulations of water, or from erosion by a river, is required for any lands, the <sup>102</sup>[Provincial Government] may cause a scheme for such drainage-works to be drawn up and published, together with an estimate of its cost <sup>103</sup>[\* \* \*] and a schedule of the lands which it is proposed to make chargeable in respect of the scheme.

**58. Powers of persons employed on such schemes.**— The persons authorized by the <sup>104</sup>[Provincial Government] to draw up such scheme may exercise all or any of the powers conferred on the Canal Officers by section fourteen.

<sup>105</sup>**[59. Rate on lands benefited by works.**— An annual rate, in respect of such scheme, may be charged, according to rules to be made by the Provincial Government, on the owners of all lands which shall, in the manner prescribed by such rules, be determined to be so chargeable:

Provided that in the case of agricultural land, no such rate shall be charged for the first two harvests immediately following the completion of the scheme].

<sup>106</sup>**[59-A. Prohibition and control regarding the discharge of effluent into canal and drainage works.**— (1) The Provincial Government may, by notification in the official gazette, prohibit the discharge of any effluent, including any solid or liquid matter or combination of them from industrial, municipal or any other source, into any river, canal and drainage work including any natural drainage channel.

(2) In case of contravention of sub-section (1), the Divisional Canal Officer, after such enquiry including taking of sample, may impose such special drainage charges as may be prescribed and shall take other necessary steps to prevent such contravention and consequential cost so incurred shall also be recoverable from the person found responsible for such contravention.

(3) After the publication of notification under sub-section (1), any person, organization or entity, interested in discharging such effluent into any river or drainage work, including any natural drainage channel, shall apply to the Divisional Canal Officer or any other person authorized by the Provincial Government in this behalf, for grant of permission for the discharge of such effluent.

(4) The applicant shall obtain a certificate of no adverse impact of such discharge on environment from the authority designated in this behalf under any law for the time being in force relating to environment.

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

<sup>103</sup>The words "and a statement of the proportion of such cost, which the Provincial Government proposes to defray" omitted by the Canal and Drainage (West Pakistan Second Amendment) Ordinance, 1970 (IV of 1970); and published in the Gazette of West Pakistan (Extraordinary), dated 13.1.1970, pages 109-110, s.2.

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

<sup>105</sup>Substituted by the Canal and Drainage (West Pakistan Second Amendment) Ordinance, 1970 (IV of 1970); and published in the Gazette of West Pakistan (Extraordinary), dated 13.1.1970, pages 109-110, s.3.

<sup>106</sup>Inserted by the Canal and Drainage (Amendment) Act 2006 (XVII of 2006); and published in the Punjab Gazette (Extraordinary), w.e.f. 6.11.2006, pages 1575-1582, s.18.

(5) The Divisional Canal Officer or the person authorized under sub-section (3), shall, after giving an opportunity of hearing to the applicant and such further inquiry as he deems necessary, determine the feasibility of such permission on the basis of the certificate mentioned in sub-section (4), capacity and flow condition of the channel and may either refuse or grant permission subject to such terms and conditions including levy of drainage charges as may be prescribed.

(6) Any person aggrieved by the order passed by the Divisional Canal Officer under this section may file an appeal before the Chief Engineer within ninety days of the passing of the order.

(7) The Chief Engineer may, on an appeal or at his own, confirm, modify or set aside the order of the Divisional Canal Officer.]

<sup>107</sup>**[60. Recovery of rate.**— Any drainage rate, levied under section 59 or section 59-A, may be collected and recovered in the manner provided under sections 45, 46, 46-A and 47 for the collection and recovery of water rates.]

**61. Disposal of claims to compensation.**— Whenever, in pursuance of a notification made under section fifty-five, any obstruction is removed or modified,

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

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 <sup>108</sup>[claims in accordance with law].

**62. Limitation of such claims.**— 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.

<sup>109</sup>**[62-A. Management of sub-soil water.**— (1) The Provincial Government shall take necessary steps for the proper management of the sub-soil water to protect the aquifer, the quality and availability of such water.

(2) The Provincial Government, or any person authorized by it in this behalf, shall carry out the evaluation and assessment regarding the condition of aquifer, quality and availability of sub-soil water in any specified area and draw up the scheme for the proper management of the sub-soil water and publish it in the manner as may be determined by the Provincial Government.

(3) Any person aggrieved by the scheme framed under this section may file objections regarding any matter included in the scheme before the person authorized

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<sup>107</sup>Substituted *ibid.*, s.19.

<sup>108</sup>Substituted *ibid.*, s.21, for the words "same in the manner provided in section 10".

<sup>109</sup>Inserted by the Canal and Drainage (Amendment) Act 2006 (XVII of 2006); and published in the Punjab Gazette (Extraordinary), w.e.f. 6.11.2006, pages 1575-1582, s.21.

by the Provincial Government.

(4) After the disposal of the objections, if any, the Provincial Government may modify the scheme and take necessary steps for its implementation.

(5) Any person violating any direction, order or instruction issued under this section, shall be liable to such charges as may be prescribed.]

## PART VIII OF OBTAINING LABOUR FOR CANALS AND DRAINAGE WORKS

<sup>110</sup>[63. \* \* \* \* \* ]

**64. Power to prescribe number of labourers to be supplied by persons benefited by canal.**— In any district in which a canal or drainage-work is constructed, maintained or protected by the <sup>111</sup>[Provincial Government], the <sup>112</sup>[Provincial Government] may, if it thinks fit direct the Collector—

- (a) to ascertain the proprietors, sub-proprietors or farmers, whose villages or estates are or will be, in the judgement of the Collector, benefited by such canal or drainage-work, and
- (b) to set down in a list, having due regard to the circumstances of the district and of the several proprietors, sub-proprietors or farmers, the number of labourers which shall be furnished by any of the said persons, jointly or severally, from any such village or estate, for employment on any such canal or drainage-work when required as hereinafter provided.

The Collector may, from time to time, add to or alter such list or any part thereof.

**65. Procedure for obtaining labour for works urgently required.**— Whenever it appears to a Divisional Canal Officer duly authorized by the <sup>113</sup>[Provincial Government], that, unless some work is immediately executed, such serious damage will happen to any canal or drainage-work as to cause sudden and extensive public injury,

and that the labourers necessary for the proper execution thereof cannot be obtained in the ordinary manner within the time that can be allowed for the execution of such work so as to prevent such injury,

the said officer may require any person named in such list to furnish as many labourers (not exceeding the number which, according to the said list, he is liable to supply) as to the said officer seem necessary for the immediate execution of such

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<sup>110</sup>Section 63 omitted *ibid.*, s.22.

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

<sup>112</sup>*Ibid.*

<sup>113</sup>Substituted for the words “Local Government” by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

work.

Every requisition so made shall be in writing, and shall state—

- (a) the nature and locality of the work to be done,
- (b) the number of labourers to be supplied by the person upon whom the requisition is made, and
- (c) the approximate time for which and the day on which the labourers will be required;

and a copy thereof shall be immediately sent to the Superintending Canal Officer for the information of the <sup>114</sup>[Provincial Government].

The <sup>115</sup>[Provincial Government] shall fix, and may from time to time alter, the rates to be paid to any such labourers: provided that such rates shall exceed the highest rates for the time being paid in the neighbourhood for similar work. In the case of every such labourer, the payment shall continue for the whole period during which he is, in consequence of the provisions of this Part, prevented from following his ordinary occupation.

The <sup>116</sup>[Provincial Government] may, <sup>117</sup>[\* \* \*] direct that the provisions of this Part shall apply, either permanently or temporarily (as the case may be), to any district or part of a district for the purpose of effecting necessary annual silt-clearances, or to prevent the proper operation of a canal or drainage-work being stopped or so much interfered with as to stop the established course of irrigation or drainage.

<sup>118</sup>[66. *Liability of labourers under requisition.*— \* \* \* \* \* ]

## PART IX OF JURISDICTION

<sup>119</sup>[67. **Jurisdiction.**— (1) Subject to subsection (2), all claims against the Provincial Government in respect of anything done under this Act may be tried by the civil court of competent jurisdiction.

(2) A court shall not assume jurisdiction in any matter in respect of anything done, being done or purported to be done under sections 20, 20-A, 20-B, 20-C, 31, 32, 32-A, 33, 34, 35, 36 and 45 of the Act and shall not pass any order interrupting any

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<sup>114</sup>Ibid.

<sup>115</sup>Ibid.

<sup>116</sup>Substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

<sup>117</sup>The words, "with the previous sanction of the Governor General in Council" omitted by the Decentralization Act, 1914 (IV of 1914); and published in the Gazette of India, dated 28.2.1914, see s.2 & Part I of the Schedule.

<sup>118</sup>Section 66 omitted by the Canal and Drainage (Amendment) Act 2006 (XVII of 2006); and published in the Punjab Gazette (Extraordinary), w.e.f. 6.11.2006, pages 1575-1582, s.23.

<sup>119</sup>Substituted by the Canal and Drainage (Amendment) Act 2016 (XII of 2016), published in the Punjab Gazette (Extraordinary), dated: 23 February 2016, pp. 3971-3973 s.5.

proceedings under the Act.]

<sup>120</sup>**[68. Settlement of disputes.–** (1) Whenever a difference arises between two or more persons with regard to the distribution of water from a canal outlet, construction, use, or maintenance of the water-course supplied with water from the outlet, or deposit of soil from water-course clearance, or mutual rights and liabilities in that regard, any such person may apply in writing to the Sub-Divisional Canal Officer.

(2) The Sub-Divisional Canal Officer may also proceed to settle any dispute without any such application on the basis of the order passed under section 20-B or an order canceling the extra water supplies.

(3) The Sub-Divisional Canal Officer shall give notice to all persons concerned regarding the enquiry in the said matter and after such enquiry shall pass an order as he deems appropriate.

(4) Any person aggrieved by an order passed under sub-section (3) may, within fifteen days of the passing of such order, prefer an appeal against the order to the Divisional Canal Officer.

(5) Where an appeal has been preferred under sub-section (4), the Divisional Canal Officer–

- (a) shall decide the appeal expeditiously; and
  - (b) may, pending the disposal of the appeal, suspend the operation of the order;
- provided that the stay order does not adversely affect any standing crops.

(6) The applicant shall not be entitled to use the water-course that may be sanctioned under this section for conveyance of water to his land or the land required for the deposit of soil from water-course clearance, until–

- (a) he has paid to the land-owner the compensation for the land occupied for any of the purposes, in whatever shape it is determined through mutual agreement; or
- (b) possession of the land has been acquired under the provisions of this Act.

(7) An order passed under sub-section (3), if there be no appeal preferred against it and an order passed in appeal under sub-section (5) shall be final.]

<sup>121</sup>**[68-A. Power to restore interrupted supply.–** (1) If canal-water supply of any land

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<sup>120</sup>Substituted first by the Canal and Drainage (Punjab Amendment) Act, 1975 (XXXII of 1975); and published in the Punjab Gazette (Extraordinary) dated 3.4.1975, pages 267-282, s.18 and then by the Canal and Drainage (Amendment) Act 2006 (XVII of 2006); and published in the Punjab Gazette (Extraordinary), w.e.f. 6.11.2006, pages 1575-1582, s.24.

<sup>121</sup>Inserted by the Canal and Drainage (Amendment) Act 2016 (XII of 2016), published in the Punjab Gazette (Extraordinary), dated: 23 February 2016, pp. 3971-3973 s.6. It was earlier substituted by the Canal and Drainage (Amendment) Act 2006 (XVII of 2006) ; and published in the Punjab Gazette (Extraordinary), w.e.f. 6.11.2006, pages 1575-1582, s.25. It was earlier added by the Canal and Drainage (Punjab Amendment) Act, 1975 (XXXII of 1975); and published in the Punjab Gazette (Extraordinary) dated 3.4.1975, pages 267-282, s.19.

is interrupted by dismantling a water-course or internal *khal*, the Sub-Divisional Canal Officer, may, upon application made in this behalf and after such enquiry as he deems necessary, order interim restoration of the dismantled water-course or the internal *khal* and the interrupted supply of water at the cost of person who interrupted the supply and if necessary by use of such agency or force as may be called for and such order shall remain in force until the dispute is finally settled under section 68 and, if necessary, a water-course link is constructed under this Act.

(2) The expenses for restoration of the water-course or internal *khal* may be recovered from the person at fault as arrear of land revenue.]

<sup>122</sup>[(3) The Sub Divisional Canal Officer shall not entertain an application under this section unless it is accompanied with an application in writing under section 68 of the Act, in case the water course is not sanctioned.

**Explanation.**— For purposes of the section, a sanctioned water course or internal *khal* shall mean a water course or internal *khal* sanctioned under section 68.]

<sup>123</sup>**[69. Enquiry proceedings.**— (1) Any officer or organization empowered under the Act to conduct an enquiry may cause the preliminary enquiry to be made by any subordinate person or entity.

(2) Any person or entity conducting an enquiry or a preliminary inquiry may exercise all such powers connected with the summoning and examining of witnesses as are conferred on a civil court by the Code of Civil Procedure 1908 (Act V of 1908) and any such enquiry shall be deemed to be a judicial proceedings.]

## PART X OF OFFENCES AND PENALTIES

<sup>124</sup>**[70. Offences under the Act.**— (1) Whoever, without proper authority does <sup>125</sup>[,or abets the doing of,] any of the following acts, that is to say:—

- (1) cuts through, pierces, damages, alters, enlarges or obstructs any canal or canal outlet or drainage work;
- (2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under, any canal or drainage work, or by any means raises or lowers the level of the water in any canal;
- (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;

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<sup>122</sup>Inserted by the Canal and Drainage (Amendment) Act 2016 (XII of 2016), w.e.f.23.2.2016, s.6; and published in the Punjab Gazette (Extraordinary), pp. 3971-3973.

<sup>123</sup>Substituted by the Canal and Drainage (Amendment) Act 2006 (XVII of 2006); and published in the Punjab Gazette (Extraordinary), w.e.f. 6.11.2006, pages 1575-1582, s.26.

<sup>124</sup>Substituted by the Canal and Drainage (Punjab Amendment) Act, 1975 (XXXII of 1975); and published in the Punjab Gazette (Extraordinary) dated 3.4.1975, pages 267-282, s.20,

<sup>125</sup>Inserted by the Canal and Drainage (Amendment) Act 2006 (XVII of 2006); and published in the Punjab Gazette (Extraordinary), w.e.f. 6.11.2006, pages 1575-1582, s.27.

- (4) makes any dam or obstruction for the purpose of diverting or opposing the current of a river on the bank whereof there is a flood embankment or refuses or neglects to remove any such dam or obstruction when lawfully required so to do;
- (5) prevents or interferes with the lawful use of a water-course by any person authorised to use the same;
- (6) being responsible for the maintenance of a water-course, or using a water-course, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorised distribution of water therefrom, or uses such water in an unauthorised manner;
- (7) dismantles water-course or internal khal thereby interrupting or obstructing the irrigation of the land of another person;
- (8) corrupts or fouls the water of any canal so as to render it less fit for the purpose for which it is ordinarily used;
- (9) causes any vessel to enter or navigate any canal contrary to the rules for the time being prescribed by Government for entering or navigating such canal;
- (10) while navigating on any canal, neglects to take proper precautions for the safety of the canal and of vessels thereon;
- <sup>126</sup>[(11) \* \* \* \* \* ]
- (12) destroys, defaces or moves any land or level mark, rain-gauge or water-gauge fixed by a public servant;
- (13) destroys, tampers with or removes any apparatus, or part of any apparatus for hydrological observations or for controlling, regulating or measuring the flow of water in any canal, river or stream;
- (14) 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;
- (15) causes or knowingly and willfully permits cattle to graze upon any canal or drainage work or tethers or knowingly and willfully permits cattle to be tethered upon any such canal or drainage work, or up-roots grass or other vegetation growing on any such canal or drainage work, or removes, cuts or in any way injures or causes to be removed, cuts or otherwise injures any tree, bush, grass or hedge intended for the protection of such canal or drainage work;
- <sup>127</sup>[(15-A) fails to pay water rate or charges imposed under section 31, 33,34, 36 or 45 within the prescribed period even after a due notice;]

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<sup>126</sup>Omitted by the Canal and Drainage (Amendment) Act 2006 (XVII of 2006); and published in the Punjab Gazette (Extraordinary), w.e.f. 6.11.2006, pages 1575-1582, s.27(2).

<sup>127</sup>Inserted by the Canal and Drainage (Amendment) Act 2016 (XII of 2016), published in the Punjab Gazette (Extraordinary), dated: 23 February 2016, pp. 3971-3973 s.7.

(16) makes or in any manner voluntarily abets the making of an encroachment of any kind within the limits of a canal or drainage work, or refuses or neglects to remove any such encroachment when so required to do by Canal Officer; or

<sup>128</sup>[(17) violates any rules made under this Act, for breach whereof a penalty may be incurred;

shall be liable, on conviction before a Magistrate of such class as the Provincial Government directs in this behalf—

(a) for an offence under clauses (1) to (4), to a fine not exceeding fifteen thousand rupees or to imprisonment not exceeding one year or to both; and

(b) for any other offence under this section, to a fine not exceeding three thousand rupees or to imprisonment not exceeding three months or to both.]

<sup>129</sup>[(2) If a person is convicted under this section, the Magistrate may order that the cost, as certified by the Divisional Canal Officer for removal of the obstruction or repairing the damage, shall be payable by such convict and on his failure to pay such costs, the same may be recovered as arrears of land revenue.]

<sup>130</sup>**[70-A. Compensation to persons injured.—** (1) Whenever any person is fined for an offence under this Act, the Court which imposes such fine, or which confirms, in appeal or revision, a sentence of such fine, or a sentence of which such fine forms a part, may direct that the whole or any part of such fine, may be paid as compensation to the injured person or as reward to the informant.

(2) If the fine be awarded by a Court, whose decision is subject to appeal or revision, the amount awarded by way of compensation or reward, as the case may be, shall not be paid until the period prescribed for appeal or revision has elapsed, and when an appeal or revision is filed, till the same is finally disposed of.]

**71. Saving of prosecution under other laws.—** 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.

<sup>131</sup>[72. *Compensation to person injured.—* \* \* \* \* \* ]

**73. Power to arrest without warrant.—** Any person in charge of or employed

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<sup>128</sup>Substituted *ibid.*, s.27(3).

<sup>129</sup>Substituted *ibid.*, 27(4).

<sup>130</sup>Added by the Canal and Drainage (Punjab Amendment) Act, 1975 (XXXII of 1975); and published in the Punjab Gazette (Extraordinary) dated 3.4.1975, pages 267-282, s.21.

<sup>131</sup>Omitted by the Canal and Drainage (Amendment) Act 2006 (XVII of 2006); and published in the Punjab Gazette (Extraordinary), w.e.f. 6.11.2006, pages 1575-1582, s.28.

upon any canal or drainage-work may remove from the lands or buildings belonging thereto, or may take into custody without a warrant and take forthwith before a Magistrate or to the nearest police station, to be dealt with according to law, any person who, within his view, commits any of the following offences:

- (1) willfully damages or obstructs any canal or drainage-work;
- (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.

<sup>132</sup>[73-A. **Cognizance.**— Notwithstanding anything contained in any other law, the offences under clauses (1) to (4) of section 70 shall be cognizable and non-bailable.]

**74. Definition of “Canal”.**— 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 <sup>133</sup>[the Provincial 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 <sup>134</sup>[the Provincial Government] upon such lands.

## PART XI OF SUBSIDIARY RULES

**75. Power to make, alter and cancel rules.**— The <sup>135</sup>[Provincial Government] may, from time to time <sup>136</sup>[\* \* \*] make rules<sup>137</sup> to regulate the following matters:—

- (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, <sup>138</sup>[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

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<sup>132</sup>Inserted by the Canal and Drainage (Amendment) Act 2016 (XII of 2016), published in the Punjab Gazette (Extraordinary), dated: 23 February 2016, pp. 3971-3973 s.8.

<sup>133</sup>Substituted for the words “the Government” by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 3 & Schedule I.

<sup>134</sup>Ibid.

<sup>135</sup>Substituted *ibid.*, see Article 4 and Table of General Adaptations, for the words “Local Government”.

<sup>136</sup>The words, “subject to the control of the G.G., in C” repealed, by the Devolution Act 1920 (XXXVIII of 1920); and published in the Government Gazette, Punjab and its Dependencies, dated 24.9.1920, pages 127-153 s.2 and First Schedule Part I.

<sup>137</sup>For such rules made under this power for various canals in the Punjab and the N.W.F.P. see Punjab Local Rules and Orders, and “Gazette of India”, 1907, Pt. II, p.1065; *ibid.*, 1908, Pt. II, p.649.

<sup>138</sup>Inserted by the Amending Act, 1891 (XII of 1891) dated 21.3.1891, s.2 and Second Schedule Part I.

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

<sup>139</sup>[Rules made under clause (4) may be made to have effect retrospectively from any date not earlier than the date on which water has been supplied or the charge has otherwise become leviable under this Act.]

**Publication of rules.**— The <sup>140</sup>[Provincial Government] may from time to time <sup>141</sup>[\* \* \*] alter or cancel any rules so made. Such rules, alterations and cancelments shall be published in the <sup>142</sup>[Official Gazette], and shall thereupon have the force of law.

## <sup>143</sup>[SCHEDULE]

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<sup>139</sup>Added by the Canal and Drainage (West Pakistan Amendment) Ordinance, 1965 (XXIII of 1965); and published in the Gazette of West Pakistan (Extraordinary), dated 8.6.1965, pages 2667-2668, s.5.

<sup>140</sup>Substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

<sup>141</sup>The words "subject to the like control", repealed by the Devolution Act 1920 (XXXVIII of 1920), dated 14.9.1920, s.2 and First Schedule Part I.

<sup>142</sup>Substituted for the words for the words "Local Official Gazette" the Government of India (Adaptation of Indian Laws) Order, 1937; and published in the Gazette of India (Extraordinary), dated 1.4.1937, pages 75-344, see Article 4 and Table of General Adaptations.

<sup>143</sup>Repealed by the Repealing Act, 1873 (XII of 1873), s. I and Schedule Pt. II.